The Solicitors' Journal

VOL. LXXVI. **Saturday, May 7, 1932.** No. 19

Current Topics.

The New Procedure Rules.

On 24th May there will come into operation Ord. XXXVIIIa, Ord. XII, r. 17a, Ord. XIV, r. 8c, and Ord. XXX, r. 2a, framed by the Rule Committee of the Supreme Court for the purpose of cheapening and speeding up litigation. These objects have been generally recognised as urgent, at least since April 1930, when the Parliamentary and Commercial Law Committee of the London Chamber of Commerce presented its now famous memorandum on the subject to the Lord Chancellor, the Bar Council, The Law Society, and other professional bodies. On 4th July, 1930, Lord Sankey, as Lord Chancellor, made a public statement that he was taking steps to see that the suggestions of the London Chamber of Commerce should be carefully considered, and in June, 1931, both the Bar Council and The Law Society reported on the subject at the invitation of the Lord Chancellor (75 Sol. J. 433, 465 and 471). In August, 1931, the London Chamber of Commerce drew up a supplementary memorandum pointing out that in view of the general measure of agreement, "there now appears to be no obstacle to the authorities immediately altering the Rules of the Supreme Court in order to provide for changes on these lines." The new rules, which have been issued by the Rule Committee with commendable promptitude, provide for the establishment of a New Procedure List, which applies to all actions in the King's Bench Division, except actions for libel, slander, fraud, malicious prosecution, false imprisonment, seduction and breach of promise of marriage. A case can be assigned to the New Procedure List at the option of either the plaintiff or the defendant, the initial responsibility resting with the solicitor for the plaintiff, who may indorse on the writ a certificate in the words "Fit for the New Procedure," with his signature. This course results in substantial advantages. Statement of claim, defence, and reply (if any), with all proper particulars, are all to be completed within twenty-one days at the latest from the date of the writ. Within a further seven days a summons for directions, returnable in not less than four days, is to be taken out by the plaintiff. The summons is heard by the judge, who may give directions as to further particulars (with a discretion as to costs occasioned by a default in the first instance), discovery and inspection of documents, or with regard to the admission of facts and of documents, transfer of actions to assizes and county courts, limitation of the number of expert witnesses, and the provision of proof by affidavit except where the other party reasonably requires a witness for cross-examination. The judge may also order the trial of an action or any issue therein with or without a jury, at his discretion, and may also record the consent of the parties either wholly excluding their right of appeal, or limiting it to the Court of Appeal, or limiting it to questions of law only. In order that parties should enjoy greater certainty with regard to the date of trial, the Lord Chancellor may, after consultation with the Lord Chief Justice, arrange for the New Procedure List to be taken by judges who shall remain in London. Both praise and criticism of a new and untried system are extremely easy, but it must be borne in mind that nearly all the reforms outlined above have been endorsed by the Bar Council, The Law Society and the London Chamber of Commerce. It is to be hoped that this new departure in legal procedure will result in falling prices in litigation which may bring prosperity instead of the all-too-familiar depression, and help to give the lie to the time-worn gibe about the law's delays. A copy of the Rules appears at p. 330 of this issue, and the Official Memorandum accompanying the Rules at p. 321.

Suicide while not of Sound Mind.

On the occasion of a recent inquest the coroner took occasion, according to the reports in the daily press, to protest strongly against the use of the words "temporarily insane." "There was no such thing," he is reported to have said, "in law and medical fact." He therefore recorded a verdict of "suicide while not of sound mind." Is there, however, any distinction in law or fact between the words "of unsound mind" and "insane"? The Latin prefix *in* merely denotes a negative, and "insane" consequently means nothing more nor less than not of sound mind. Moreover, "temporarily insane" may be said to be a somewhat milder finding than "of unsound mind," since the latter expression may obviously include a state of apparently permanent mental incapacity. It is, of course, untrue to imply that the word "insanity" is not known in law. It is used, for example, in the Criminal Lunatics Act, 1800, and in the Trial of Lunatics Act, 1883, and the verdict found under the latter is "guilty, but insane." It would seem, therefore, that the coroner's animadversions against the use of the words "temporarily insane" were uncalled for, except to the extent that the words are not to be found in the Coroners Acts or the Rules made thereunder. Did not the coroner, however, in his attempt to correct what is a common form of verdict in these cases, attempt to perpetuate a real error, if, as reported, he recorded a verdict of "suicide while of unsound mind"? "Suicide" is the killing of one's self in a manner which in the case of another person would amount to murder (Stephens' Dig. of Cr. L., Art. 227). A person of unsound mind to such extent as not to appreciate the nature of his act cannot be guilty of murder and, as is pointed out by the author of "The King's Coroner" (himself both a barrister and a medical man), the verdict of "suicide whilst temporarily insane" is not a legal verdict, but a contradiction of legal phraseology. The same observation would equally apply to a verdict of "suicide while not of sound mind." The form of inquisition which was scheduled to the Coroners Act,

1887, and has been replaced by that in the schedule to Coroners Rules, 1927, gives as an example (not necessarily to be followed) "the said C.D. not being of sound mind did kill himself," and this is the form in which the learned author of "The King's Coroner" says the jury (where there is a jury) should be directed to find their verdict.

The "Careful Father."

THE ALMOST inevitable appeal against the judgment entered at Southwark County Court on 23rd November, 1931, in *Jones* v. *L.C.C.*, which we discussed (75 SOL. J. 875), was heard by the Divisional Court on 15th April (*The Times*, 16th April). It will be recalled that the jury awarded £1,000 damages to a youth who had entirely lost the use of his right arm through injuries suffered by him in a game which he had been ordered to play at an L.C.C. Institute. He had been compelled to attend the institute as a condition of earning unemployment insurance benefit under the Unemployment Insurance Acts, 1920 to 1930. The game in which he had been ordered to participate was known as "riders and horses," in which boys were paired off, one mounting the back of another, and a battle royal ensued, each endeavouring to bring to the ground the foot of the boy acting as rider in an opposing pair. It was argued on behalf of the L.C.C. that there was no evidence of negligence to go to the jury, while on behalf of the respondent it was said that the game was dangerous in itself, or alternatively that it was dangerous under the circumstances in which it was played, on a wooden floor without matting and without any attempt to separate the boys according to sizes and weights. Mr. Justice AVORY, in allowing the appeal, said that "if there had been matting it would have been said that there ought to have been a mattress, and if there had been a mattress it would have been said that there ought to have been a feather-bed; and if there had been a feather-bed that the boys ought to have been wrapped up in cotton wool or rubber." There was, in his lordship's view, no evidence that the game was dangerous in itself or dangerous under the circumstances or that the instructor was negligent. Otherwise it could be said that no instruction in physical exercises or games could ever be given in a school without the authorities being liable if a boy fell and hurt himself. Mr. Justice TALBOT, in agreeing that the appeal should be allowed, said that it was impossible to conceive of any form of physical exertion which does not involve equally great risks, and that no legal wrong had been committed in setting the lad to play at the game. Lord ESHER, M.R., laid down the test of a schoolmaster's duty in *Williams* v. *Eady*, 10 T.L.R. 41, where he said that "the schoolmaster was bound to take such care of his boys as a careful father would take of his boys." Many fathers who permit their sons to play Rugby football and indulge their spirit of adventure in even more dangerous ways would be highly indignant if they were told that they were careless fathers. Education must include the development of manly characters, and occasional unfortunate occurrences like that in *Jones* v. *L.C.C.* ought not to affect this principle.

Photographs of Convicts at Dartmoor.

IT IS reported that convicts at Dartmoor have recently complained of visitors taking photographs of them in their gangs, and that the regulations of the Prison Commissioners against this are being imposed. The objection of convicts to photographs of them as such, is of course both natural and reasonable, and it is provided by the rules under the Prisons Acts, that, when they are taken to and from prison, they shall be exposed to the public gaze as little as possible. It is open to question, however, whether prison warders or officials have any right to interfere with the use of cameras by tourists. So far as any part of Dartmoor is Crown property, the public can be excluded from it as trespassers, save for passing and repassing on highways, and the duty of turning off those who were an annoyance to the convicts out on the moor could no doubt be deputed to the warders in charge. On the principle of *Hickman* v. *Maisey* [1900] 1 Q.B. 372, it is also arguable that a tourist or newspaper reporter who went to Dartmoor especially to take photographs of the convicts from the road would be a trespasser there, and could be required to move off before accomplishing his object. The right of interference, however, with anyone *bonâ fide* walking along a road and adjusting his camera as he did so would be more doubtful. A warder might perhaps effectively frustrate a would-be photographer by interposing his person, probably a bulky one, between the latter and his proposed victims, but the prison rules would not warrant him in the use of physical interference with strangers who were not breaking the law. The question of publishing likenesses of individuals, in entire disregard of their violent objections to such a course, was discussed in *Monson* v. *Tussauds* [1894] 1 Q.B. 671, and *Corelli* v. *Wall* (1922), 22 T.L.R. 532. In the latter case it was decided that the plaintiff, the well-known authoress, had not established any right to restrain publication of a picture of her, on the ground of her annoyance, because she deemed it was a bad likeness. MONSON, prosecuted and acquitted on a "not proven" verdict in Scotland for the murder of young CECIL HAMBROUGH, in the "Ardlamont Mystery," objected to the exhibition of his waxen image in the ante-room to the "Chamber of Horrors," in the defendant's well-known exhibition, but a question of his consent to it was raised, and the Court of Appeal refused the interim injunction. On the principle that truth is a complete defence to an action for libel, it may be submitted that a convict could not, while he remained one, obtain damages for the publication of a photograph of a gang in which he was recognisable, though possibly he might do so when free on the principle of *Leyman* v. *Latimer* (1878), 3 Ex. D. 352. To photograph convicts might also perhaps be regarded as conduct conducive to a breach of the peace.

Legal Biography.

ALTHOUGH, AS has been said, lawyers are very good companions, and their "shop" is more full of human interest than the "shop" of most other professions, it must be admitted that the average biography of a lawyer, however high he may have risen in the esteem of his contemporaries, seldom appeals to any but the fellow-members of the profession. There have, of course, been exceptions to this. CAMPBELL'S "Lives of the Chancellors," as to which Sir CHARLES WETHERELL wittily observed that they had added a new terror to death, are, despite many faults of taste, fascinating reading, but this is because most of those treated were prominent in politics as well as in law. A work of a very different type is Sir HENRY CUNNINGHAM'S model biography of Lord BOWEN. True, Sir HENRY was fortunate in his subject, for BOWEN was a man of genius not only in law but in general culture, and the result is that we find in the pages which contain the record of his life a picture at once full of charm and interest. Sir CHARLES MALLET'S more recent memoir of Lord CAVE is another biography which, if not possessed of the charm of that which Sir HENRY CUNNINGHAM wrote, is at any rate an excellent piece of work, revealing, as it does, the unostentatious character of the distinguished Lord Chancellor, his zeal for the work which fell to his hand, and the great qualities of mind and heart which distinguished him throughout his too brief career. The study of this admirable biography has had the gratifying consequence of prompting an anonymous admirer of CAVE'S work in politics and in law to present copies of the memoir to the various public libraries throughout England in order that it may be made generally accessible to the youth of the country and induce them to be imitators of CAVE'S high-mindedness and regard for the general weal. Rarely has a lawyer been given so striking a testimonial; in his case, eminently well deserved.

Criminal Law and Practice.

THIRD PARTY INSURANCE AND PILLION RIDERS.—Is a motor-cyclist properly insured against third-party risks if he is not covered against such risks whilst carrying a pillion passenger? In *Bright* v. *Ashfold* (*Times*, 9th April), the Divisional Court recently considered the effect of the well-known s. 35 of the Road Traffic Act, 1930, which provides that it is an offence "for any person to use a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Part of the Act." The seriousness of the offence is emphasised by sub-s. (2), which provides a maximum penalty of £50 fine, or three months' imprisonment, or both, and automatically disqualifies the offender for holding or obtaining a licence under Pt. I of the Act for a period of twelve months, unless the court for special reasons thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification. The appeal was by way of case stated from a dismissal by the justices of an information under s. 35. On the date alleged in the information the respondent was driving a motor-cycle with a pillion passenger and without a side-car. His policy of insurance, which purported to insure him against third-party risks, provided nevertheless that "the Corporation shall not be liable for any accident, loss or damage caused or sustained while any motor-cycle in respect of which indemnity is granted under this policy is carrying a passenger unless a side-car is attached." The certificate granted under s. 36 of the Act also stated that the policy did not cover use while carrying a passenger unless a side-car is attached to the motor-cycle. At the time of the alleged offence the respondent was carrying a pillion passenger, and at the hearing he invoked in his aid s. 38 of the Act, which provides that a condition "providing that no liability shall arise under the policy or security or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security shall be of no effect in connection with such claims as are mentioned in paragraph (*b*) of subsection (1) of section 36." The court allowed the appeal, Lord Hewart observing that the condition did not come within s. 38 as it was a condition "circumscribing the operation of the policy from the beginning" and not one as to something being done "after the happening of the event giving rise to a claim." This must be so, as s. 38 was designed to meet entirely different cases, for example, the case of a condition exempting the company from liability where the insured fails to inform the company of the accident. There need be nothing illegal or improper in carrying a pillion passenger. Section 16 impliedly declares its legality, subject to proper limitations and restrictions, and s. 36 (1) (ii), which provides that the policy is not required to cover liability in respect of the death of or bodily injury to (*inter alia*) persons being carried in or upon the vehicle, except in certain cases, uses the words "or upon" in order to meet the case of pillion riding. It would be indeed strange if third parties were not protected by the Act against the risks involved in the dangerous practice of pillion riding. Fortunately for the motor-cyclist he is not required by law to be insured against possible injuries to his pillion passenger, who usually comes off first—and worst—in an accident.

COMPENSATION FOR DAMAGE BY RIOT.—Now that the magisterial hearing of the cases of the Dartmoor convicts is over, may we be permitted to wonder who is going to pay for the damage which someone (or more) did to the State prison near Princetown? When it was announced that no less than £10,000 worth of destruction had been caused by acts which, if proved, seem hardly to be distinguished from a riot, many of the public must have thought, with a pang, of their hard-earned savings being used to restore the *status quo*. In the circumstances we may perhaps inquire whether the Devonshire County Council have been asked to foot the bill!

Under the Riot (Damages) Act, 1886, as amended by the Local Government Act, 1888, s. 5, claims for compensation for damage to a house, shop or building, or the property therein, in counties must be made to the county council. The claim must be made within fourteen days, but the time may be extended to forty-two days: see regulations of October, 1921, by the Secretary of State.

In order to obtain compensation, the five necessary elements of a riot must be proved, viz.: (1) there must be three persons at least; (2) a common purpose; (3) the execution or inception of the common purpose; (4) intent of the persons concerned to help one another, by force if necessary, against any person who may oppose them in the execution of their common purpose; (5) force or violence not merely used in demolishing a building, but displayed so as to alarm at least one person of reasonable firmness and courage: *Field* v. *Receiver for Metropolitan Police District* [1907] 2 K.B. 853; *Ford* v. *Receiver for Metropolitan Police District* [1921] 2 K.B. 344.

If these elements were present at the prison on Dartmoor during the recent unhappy occurrences, then so far as we can see, the owners of the buildings and property destroyed (see s. 7 (*b*), Riot (Damages) Act, 1886, for definition of owners of a public institution) have a right to compensation from the Devonshire County Council, such compensation to be paid out of the police rate: s. 2, *ib.*

Assuming that H.M. Secretary of State for Home Affairs is the person "having the control" of the prison (s. 7 (*b*), *supra*), it would be interesting to know if, on behalf of our sadly depleted pockets, he has thought of the legal remedies open to him.

Legal Maxims.

Sic utere tuo ut alienum non laedas.

THIS maxim limits the doctrine that the absolute owner of property may deal with it as he likes. It is the basis of the law of private nuisance and of the rule in *Rylands* v. *Fletcher*, so far as that rule applies to the occupation and use of land.

The proposition that a man must not use his land so as to cause inconvenience to his neighbour is, however, too general, for it is not every inconvenience which is actionable. "The cases have decided that where the maxim *sic utere tuo ut alienum non laedas* is applied to landed property, it is subject to a certain modification, it being necessary for the plaintiff to show not only that he has sustained damage, but that the defendant has caused it by going beyond what is necessary in order to enable him to have the natural use of his own land": per BRETT, L.J., in *West Cumberland Iron & Steel Co.* v. *Kenyon* (1879), 11 Ch. D., at p. 787.

Two elementary points must be made clear. First, a nuisance is actionable only at the suit of the person in possession of the land injuriously affected: *Jones* v. *Chappell*, L.R. 20 Eq. 539; *Cattle* v. *Stockton Waterworks Co.* (1875), L.R. 10 Q.B. 453; *Malone* v. *Laskey* [1907] 2 K.B. 141. But a reversioner may sue for actual damage to his reversion: *Shelfer* v. *City of London Electric Lighting Co.* [1895] 1 Ch. D. 287. Secondly, no action will lie without proof of actual damage: *Smith* v. *Giddy* [1904] 2 K.B. 448. "There must be actual damage capable of being shown by a plain witness to a plain common juryman. The damage must be substantial; and it must be, in my view, actual, that is to say, the court has no right whatever . . . to have regard to contingent, prospective or remote damage": per JAMES, L.J., in *Salvin* v. *North Brancepeth Coal Co.*, L.R. 9 Ch. 705.

The damage which flows from an actionable nuisance may, therefore, take one of two forms: (1) material injury to the

property, or (2) interference with the enjoyment of the property. "It is a very desirable thing to mark the difference between an action brought for a nuisance upon the ground that the alleged nuisance produces material injury to the property, and an action brought for a nuisance on the ground that the thing alleged to be a nuisance is productive of a sensible personal discomfort": per LORD WESTBURY, L.C., in *St. Helen's Smelting Co.* v. *Tipping* (1865), 11 H.L.C. 642. The tests which mark this difference limit, in no small degree, the scope of the maxim.

In *St. Helen's Smelting Co.* v. *Tipping* the *local standard of comfort* was adopted as the test to be applied where the alleged nuisance consists of interference with enjoyment. There is not an absolute standard, but one which depends "on the circumstances of the place where the thing actually complained of actually occurs." This test has been approved in *Sturges* v. *Bridgman*, 11 Ch. D. 852, and *Polsue & Alfieri, Ltd.* v. *Rushmer* [1907] A.C. 121. THESIGER, L.J., in *Sturges* v. *Bridgman*, said: "... whether anything is a nuisance or not is a question to be determined, not merely by an abstract consideration of the thing itself, but in reference to its circumstances; what would be a nuisance in Belgrave-square would not necessarily be so in Bermondsey; and where a locality is devoted to a particular trade or manufacture carried on by the traders or manufacturers in a particular and established manner not constituting a public nuisance, judges and juries would be justified in finding, and may be trusted to find, that the trade or manufacture so carried on in that locality is not a private or actionable wrong." But it has been held that this doctrine is not applicable to cases of infringement of ancient lights. In *Hortons' Estate, Ltd.* v. *James Beattie, Ltd.* [1927] 1 Ch. D., at p. 78, RUSSELL, J., said: "The standard of lighting required to survive in order to eliminate the existence of a nuisance seems to me of necessity an absolute standard. The human eye requires as much light for comfortable reading or sewing in Darlington-street, Wolverhampton, as in Mayfair."

But the fact that a locality is one generally employed for trades similar to one from which the alleged nuisance arises, does not of itself exempt from liability for nuisance, though it is a matter to be taken into consideration: *St. Helen's Smelting Co.* v. *Tipping*. It was also pointed out in that case that a place where works are carried on which occasion an actionable injury to the property of another is not, within the meaning of the law, "a convenient" place.

The *local standard of comfort* is not the criterion where the nuisance causes material injury to property: *St. Helen's Smelting Co.* v. *Tipping*. "... the submission which is required from persons living in society to that amount of discomfort which may be necessary for the legitimate and free exercise of the trade of their neighbours, would not apply to circumstances the immediate result of which is sensible injury to the value of the property."

The rule in *Rylands* v. *Fletcher* is, in the words of BLACKBURN, J., L.R. 1 Ex., at p. 279, as follows: "... the person who for his own purposes brings on his lands and collects and keeps there anything likely to do mischief if it escapes, must keep it at his peril, and, if he does not do so, is *prima facie* answerable for all the damage which is the natural consequence of its escape." This rule is not confined to land, but, in so far as it is, it is based upon the maxim *sic utere tuo ut alienum non lædas*. There are exceptions to the rule which are fully dealt with in "Salmond on Torts" (7th ed.), p. 351. BLACKBURN, J., indicated two of these exceptions in his judgment. He said: "He can excuse himself by showing that the escape was owing to the plaintiff's default; or perhaps that the escape was the consequence of *vis major*, or the act of God."

It is said that a man cannot increase the liabilities of his neighbour by applying his own property to special uses, whether for business or pleasure. This proposition is certainly true as regards the question of nuisance. In *Robinson* v. *Kilvert*, L.R. 41 Ch. D. 88, which was a case of nuisance, COTTON, L.J., said: "It would, in my opinion, be wrong to say that the doing something not in itself noxious is a nuisance because it does harm to some particular trade in the adjoining property, although it would not prejudicially affect any ordinary trade carried on there, and does not interfere with the ordinary enjoyment of life." But there appears to be doubt whether this proposition applies where the damage results from something which falls within the rule in *Rylands* v. *Fletcher*. LINDLEY, L.J., in *Robinson* v. *Kilvert*, referring to the case of *Cooke* v. *Forbes*, L.R. 5 Eq. 166, said: "Now, if a man pours out gas of that description (sulphuretted hydrogen, a gas of an offensive and noxious character) into the atmosphere, he does it at his own risk, and it may well be that he is liable for any damage done by it to a neighbour, although such damage would not accrue if the neighbour's manufacture were not of a delicate description."

It is clear that extraordinary user of land is not protected by the law of nuisance, but the dictum of LINDLEY, L.J., suggests that it may be protected by the rule in *Rylands* v. *Fletcher*. The head-note in *Hoare* v. *McAlpine* [1923] 1 Ch. 167, reads: "the principle of *Rylands* v. *Fletcher* ... applied so that even if, as the defendants alleged, the plaintiffs' house was in an abnormally unstable condition, the defendants were responsible as insurers for all damage caused by the escape of the vibration they had so created." But this does not seem to be justified by the judgment of ASTBURY, J., who held that *Rylands* v. *Fletcher* applied, and that the house was not in a delicate condition. There is, it is submitted, nothing in the judgment which suggests that, if the house had been in a delicate condition, *Rylands* v. *Fletcher* would still have applied.

It is submitted that the true view is expressed in "Salmond's Torts" (7th ed.), p. 356: "So also where the damage would not have occurred but for the non-natural user of the plaintiff's property the defendant will not be liable under this rule." This view is supported by the decision in *Eastern & South African Telegraph Co.* v. *Cape Town Tramways Co.* [1902] A.C. 381, where an action was brought by the telegraph company for interference with its telegraphic operations through induced currents caused by the working of the defendants' tramcars. The Privy Council held that the defendants were not liable because the escape of electricity would do no harm to the ordinary occupation of land, and the damage done was solely due to the delicate nature of the plaintiffs' operations. Lord ROBERTSON, delivering the judgment, said at p. 393: "The principle of *Rylands* v. *Fletcher*, which subjects to a high liability the owner who uses his property for purposes other than those which are natural, would become doubly penal if it implied a liability created and measured by the non-natural uses of his neighbour's property."

It is clear that the maxim *sic utere tuo ut alienum non lædas* cannot be accepted in its literal sense. Whatever its application in former times, many limitations have now been grafted upon it, and it should be applied with great caution.

Company Law Reform.

[CONTRIBUTED.]

SOME recent statements from eminent accountancy sources on the propriety of non-disclosure in the accounts of public limited companies of inner or secret reserves raise again the vital issue of company law reform in the direction of greater disclosure in company balance sheets. Lord PLENDER, who gave evidence on accountancy practice in the *Kylsant Case*, in addressing the annual meeting of the Chartered Accountants Students' Society of London, on 25th April, said that the public was not generally averse to reasonable inner provisions for contingencies, but that it was concerned about the use of inner reserves so as to give an incorrect view of a company's

earning capacity year by year. That it is not desirable in every case to compel disclosure on a balance sheet of all such inner provisions or reserves becomes clear from the examples that Lord PLENDER gave in the course of his address. He stated that in practically all cases the results of trading for any one year so shown in a profit and loss account were bound to be an approximation based upon facts, estimates and opinions. Over caution in stock valuation, estimates of debts as good which are subsequently found irrecoverable and *vice versa*, fluctuations in the rate of exchange resulting in additional profit or loss, the difficulty of estimating accruing profits on long-term contracts, and of making accurate provision for depreciation, were a few of the matters to which Lord PLENDER referred, which might result in a surplus or deficiency of inner reserves from time to time. There are many advantages and considerable justification in the existence of secret reserves in many cases, Lord PLENDER pointed out, but a stronger case could be made out for disclosure of any sums abstracted from such reserves in order to supplement profits, especially if the sums abstracted were large when compared with the operating results of the year. Lord PLENDER also referred to the question of further disclosure of subsidiary companies' assets, liabilities and trading results than that required by s. 125 of the Companies Act, and also the disclosure of non-recurring credits and extraneous or special items in profit and loss accounts. During the same week a report of the committee appointed by the Council of the Society of Incorporated Accountants and Auditors, containing far-reaching recommendations for the reform of company law, was submitted to the Board of Trade. The main suggestions with regard to inner reserves are that in the profit and loss account any debits or credits which are abnormal in character or extraneous to the ordinary transactions of the company, together with any reserves from a previous period no longer required, should be stated separately, and that free reserves should be disclosed on the balance sheet, except where provision must be made for estimated losses or expenses not definitely ascertainable at the date. There is also a recommendation for further disclosure of the profits and losses of subsidiary companies in holding companies' balance sheets. The law on the subject of secret reserves, prior to 1929, was contained in the leading case of *Newton* v. *Birmingham Small Arms Co. Ltd.* [1906] 2 Ch. 378. BUCKLEY, J., as he then was, said in that case: "If the balance sheet be so worded as to show there is an undisclosed asset, whose existence makes the financial position better than shown, such a balance sheet will not, in my judgment, be inconsistent with the Act of Parliament." It is exceedingly doubtful whether this statement of the law is still applicable in view of ss. 124 and 362 of the Companies Act, 1929: the first of these requires the balance sheet to contain, *inter alia*, the statement of the liabilities and assets with such particulars as are necessary to disclose their nature; the second makes it an offence for any person to make a statement false in any material particular, knowing it to be false, in certain specified documents, including the balance sheet. Nevertheless, a clear declaration on this point, together with more stringent requirements with regard to disclosure of the profits and losses of subsidiary companies than are contained in s. 125 of the Companies Act, 1929, will do much to restore public confidence in limited company finance and administration and to stimulate the flow of capital into industry so as to bring about the long-awaited trade revival.

The Right Hon. Sir James O'Connor, K.C., of Dulwich Village, S.E., a former Lord Justice of Appeal in Ireland, who died on 29th December, aged fifty-nine, left estate in his own disposition of the gross value of £1,044, with net personalty £274.

Mr. Robert Wood Williamson, of Brook, near Godalming, formerly of Manchester, a well-known anthropologist, formerly practising as a solicitor, left estate of the gross value of £60,808, with net personalty £57,439, "so far as can at present be ascertained."

Northern Ireland as part of the United Kingdom.

[CONTRIBUTED.]

THE constitutional issue between England and the Irish Free State was dealt with in THE SOLICITORS' JOURNAL of 16th April, p. 261. That issue does not directly concern Northern Ireland, but the general discussions upon Irish matters, to which it has given rise, indicate a vague conception as to the position of Northern Ireland in the United Kingdom. For instance, a correspondent recently addressing a leading daily newspaper stated: "It is quite a mistake to say that Northern Ireland remains (or is) an integral part of the United Kingdom." Doubtless, few readers of THE SOLICITORS' JOURNAL would be incapable of refuting this proposition. But it may be useful to set out in some detail the authorities to the contrary.

The root of Northern Ireland's title to a place within the United Kingdom is, of course, the Act for the Union of Great Britain and Ireland (40 Geo. 3, c. 67), which recited that the Parliaments of Great Britain and Ireland had agreed to concur "in such measures as may best tend to unite the two Kingdoms of Great Britain and Ireland into one kingdom," and proceeded to ratify certain "Articles" of agreement, of which the first was "that the said kingdoms . . . shall . . . be united into one kingdom by the name of *The United Kingdom of Great Britain and Ireland*"; the second Article dealt with the succession to the Crown; and the third Article was "that the said united kingdom be represented in one and the same Parliament to be stiled *The Parliament of the United Kingdom of Great Britain and Ireland*." Further measures were passed in 1816 (56 Geo. 3, c. 98) and 1823 (4 Geo. 4, c. 7) of a consequential character. The former Act united and consolidated into one fund all the public revenues of Great Britain and Ireland, and applied them to the general service of the United Kingdom; whilst the Act of 1823 provided that the Chancellor of the Exchequer of Great Britain should always be appointed to the same office for Ireland. The separate Exchequers were subsequently abolished. The furthest point in the direction of union was sighted—but not reached—in the year 1850, when a Bill to abolish the Lord Lieutenancy of Ireland was introduced in Parliament, but did not become law.

So Ireland remained, until the Government of Ireland Act, 1920 (10 & 11 Geo. 5, c. 67), came into operation as respects Northern Ireland, and, in pursuance of the Articles of Agreement of the following year, the rest of Ireland achieved "Dominion status." The Irish Free State thus went out of the United Kingdom, but Northern Ireland, exercising the option then given, remained within it. The Government of Ireland Act (with the amending enactments which confined its application to Northern Ireland) certainly established for Northern Ireland a separate Parliament, with a separate Executive responsible to that Parliament, and a separate Exchequer. But those provisions did not effect the exclusion of Northern Ireland from the United Kingdom, because, by virtue of other provisions of the same Act, the Parliament and Government of the United Kingdom retain jurisdiction in Northern Ireland as respects various matters and taxes, and thirteen members are returned to serve in the United Kingdom Parliament for constituencies in Northern Ireland. As examples of excepted and reserved matters, the following may be mentioned: Navy, Army and Air Force matters; the Post Office; Income Tax; Customs and Excise. The administration of these in Northern Ireland is carried on under the authority of the Parliament at Westminster, in much the same way as before the Act of 1920 came into operation.

The final touch was applied to this constitutional picture in the year 1927, when, by the Royal and Parliamentary Titles Act (17 & 18 Geo. 5, c. 4), it was enacted that: "Parliament shall hereafter be known as and styled the

Parliament of the United Kingdom of Great Britain and Northern Ireland . . . In every Act passed and public document issued after the passing of this Act the expression 'United Kingdom' shall, unless the context otherwise requires, mean Great Britain and Northern Ireland."

Boundary Presumptions.

THE word "boundary" is incapable of precise definition. Sometimes it is used to refer to some imaginary line which might be delineated by stretching a rope from one point to another (assuming there are no deviations from the straight); otherwise it might be applied to a fence or hedge or some other object by which the limitation of certain property is ascertainable. A river also may be said to be the boundary between two estates. But whatever the term be applied to, it is subject to certain legal presumptions which must be kept in view when the rights of the respective parties on either side of the boundary are to be ascertained with precision. So that although a hedge growing upon A's land may be regarded as the boundary between A and his neighbour B, it will usually be found that A's legal rights extend beyond the hedge, whilst B's fall short of it. Or, in the case of land abutting on a highway where there is a grass verge, although the hedge may nominally be the boundary of the adjoining estates the actual ownership may extend over the whole or part of the grass verge, and nice questions may arise from time to time between landowner and highway authority as to their respective rights and interests.

Some estates are bounded by a river or by the sea-shore, or by the shore of an inland lake. In these cases more complex questions may arise, chiefly owing to the effect of tides or of changes in the course of a river after heavy flooding of the countryside; but these variations are exceptional and abnormal, and each has to be dealt with on its own particular merits. So far as the sea-shore is concerned, that can hardly be the boundary between two estates; it is merely the confine of the one particular estate which runs up to it. If the sea recedes the estate is enlarged; if it encroaches the estate is diminished proportionately. The law presumes that the limit of an estate running up to the shore is the medium high-tide line, though there have been cases in which this presumption has been displaced by evidence of wider reach.

The presumption in the case of a river running between two estates is that the boundary of each is an imaginary line drawn *ad medium filum*: *Blount* v. *Lazard* (reported in [1891] 2 Ch. 681, though, in fact, it was dealt with by the Court of Appeal in 1888). In that case the plaintiff alleged himself to be the owner of the Mapledurham Estate in Oxfordshire, comprising several manors and a fishery in the Thames, extending over the whole stream of the river between certain points, and thence extending over half the stream of the river down to another point. The action against the defendant was for trespass to the fishing. The plaintiff lost his case, but in the course of delivering judgment Lord Justice BOWEN said:—

> "The natural presumption is that a man whose lands abut on a river owns the bed of the river up to the middle of the stream, and, if he owns the land on both sides the presumption is that the whole bed of the river belongs to him unless it is a tidal river. There is also a presumption that the owner of the bed of the river has the right to fish in the stream and to prevent other persons from fishing there. But these are presumptions of fact which may be rebutted . . . It is a question of fact, not of law, in whom the bed of the river Thames in any particular place is vested."

The ancient presumption that where adjacent lands belonging to different owners are separated by hedge and ditch the ditch forms part of the soil of the owner to whom the hedge belongs was affirmed in 1827 in *Noye* v. *Reed*: but it was queried in *Marshall* v. *Taylor* [1895] 1 Ch. 641, whether this presumption holds good in cases where there is no indication that the ditch had been artificially made by throwing up soil for the planting of a hedge; and it was referred to in *Collis* v. *Amphlett* (1919), 122 L.T. 433, where exhaustive judgments were delivered in the House of Lords covering this whole subject. Part of the head-note in the report cited reads thus:—

> "The plaintiff insisted that the boundary line should be drawn just along the outside of the outer line of 'growers,' the trunks or stems of the hedge. The defendant asserted a right to a 'ditch-width' on the further side of the hedge, although in fact there was no ditch and no evidence of the existence of a ditch.
>
> "Held, that on the facts the boundary of the common was the line of 'growers' on the side next the common, and the defendant could not maintain a fence outside that line.
>
> "The claim of a ditch-width only can be maintained in the case of an actual ditch."

Another case referred to in *Collis* v. *Amphlett* which is of interest was *Guy* v. *West* (1808), where it was held that if there be two ditches, one on each side of a hedge, the ownership of the hedge must be ascertained by evidence to prove acts of ownership.

No small amount of trouble is arising at the present time in connexion with ditches alongside of highways. This is not a new difficulty, but an old one likely to be heard of more frequently now that roads are being widened and tar-spraying is causing volumes of water to run from the surface of roads. Local authorities are prone at the present time to indulge in the pleasantry of filling in roadside ditches—usually first putting a pipe at the bottom for drainage purposes, and then levelling up the top with soil. Soon we shall be hearing of disputes as to ownership of these filled-in ditch strips. In that connexion the case of *Field* v. *Thorne* (1869), 20 L.T. 563, is of interest. There the owner of some land adjoining a highway and separated from it by a ditch (the hedge having apparently become derelict) was summoned under s. 51 of the Highway Act, 1864, for an alleged encroachment on the highway. It appeared that he had erected a fence along the site of the ditch and within 7 feet of the centre of the highway contrary to the section. It was there decided that the owner could not be convicted, for he had put the fence only on his own land, the ditch being no part of the highway. Reference to this case will point the way to effective resistance of claims by highway authorities to act regardless of the rights of owners of roadside ditches.

Company Law and Practice.

CXXVIII.

CONCURRENT JURISDICTION.

THE tendency in the commercial world appears to be to attempt, in bad times such as the present, to put one's house in order: rationalisation, that inexactly-defined operation which the inexpert regard as the key to prosperity, is in the air. There are the most obvious reasons for the selection of a time such as we are now going through for a complete overhaul of an organisation; when trade is brisk, the machine must be kept working at high pressure, and there is frequently neither time nor inclination for an inspection to see what defects have developed, or may be developing. But when the machine is going more slowly, and does not require so much attention, then is the time, and the opportunity, for meditation which may be profitable. The law itself may not be in need of rationalisation, though he would be a bold man who said that

it was incapable of improvement—but every competent observer will agree that the procedure of the courts does need attention.

Thus, it may be observed that the stupendous work, the Annual Practice, affectionately known as "the White Book," contains 2,593 pages, and a mere 430 further pages of index. Let it not be for one moment thought that I am criticising this great work—far from it; it is a complete, exhaustive and learned compilation, and has a peculiarly useful index; but it may be put to illustrate the criticism of our practice and procedure, that a book of 3,000 pages is needed to inform the practitioner of its substance. The length of the lists has been falling off considerably recently, and though, like the decrease in the consumption of beer, this can be explained by the prevailing industrial depression, there are other factors which may be said to operate. So far as the law is concerned, we are told, and no doubt with some truth, that the delay and the expense involved in litigation are such as to render it a less popular diversion than it used to be; and an effort has been made to meet these criticisms in the New Procedure Rules—whether the effort has been successful, and, if so, to what extent, time alone can show. But it is not with these general criticisms that I wish to deal here, for they are quite outside the scope of this column; there is, however, one particular point concerned with the system of procedure which seems to cry aloud for the attention of those concerned, and that is the concurrent jurisdiction exercised by the Chancery Division and what I may call the Companies Court.

If I may hark back for a moment to commerce as providing a suitable analogy, everyone of any experience will agree with the statement that no progressive commercial firm would tolerate two departments, with separate staff, doing exactly the same work. Take the case of retail distribution. Can anyone imagine any one of the big stores with two departments selling boots and shoes, each utilising its own floor space, and each with its own salesmen, its own buyer and under-buyer? Such a conception is fantastic, and at the annual general meeting of a concern which did such a thing the shareholders might well, with every semblance of reason on their side, make sharp criticisms of such an arrangement. And yet a precisely similar thing is going on in the administration of company law at the present day; in the Royal Courts of Justice, and in Carey Street, are two organisations covering, to some extent, the same ground, and doing, to some extent, the same work. But something more than mere duplication is the inevitable result; little differences in the method of dealing with the problems which arise are bound to occur, and do in fact occur, as every company practitioner of experience knows. Can there be anything more unsatisfactory than that there should not be an absolutely uniform practice with regard to, say, petitions for the reduction of the capital of companies?

How does this concurrent jurisdiction come about? Order 53B, which is the order regulating procedure on applications under the Companies Act, 1929, provides, by r. 2, that, except where otherwise provided therein, every originating petition, notice of motion, or summons to which the Order relates may, at the option of the petitioner or applicant, be brought to and issued out of either (*a*) such office or department as is specified in Ord. V, r. 9, or (*b*) the office of the Registrar Companies (Winding Up). For this purpose we can take the office or department specified in Ord. V, r. 9, as representing the Chancery Division generally. Those more learned historically than the present writer can, no doubt, offer some explanation of this dual jurisdiction; but what justification for it can anyone offer?

There is, too, a trap for the unwary with regard to these matters, in that the headings of the proceedings are the same in either case, and, though counsel may have settled a draft intending that it should be presented in Carey Street, the solicitor may, unless warned by a marginal note, seeing "In the High Court of Justice, Chancery Division, Mr. Justice ——" as a heading, go into the Law Courts with it, where the Chancery Division will welcome it, and give it a number, "1932.—X.—No. 123." If it were presented in the Companies Court it would be numbered "No. 00123 of 1932," and this is the only outward and visible sign of any distinction between the two organisations. The White Book, it is true, takes a different view, and states, in at least two places, that where the application is made in the Companies Court, that is, to the judge to whom the winding-up business is assigned, the proceedings are to be headed "Chancery Division Companies Court," but this is not the practice, and there appears to be nothing to justify the statement—the only provision which need be considered is Ord. 53B, r. 4, which provides that every petition, notice of motion and summons and all notices, affidavits and other proceedings shall be intituled in the High Court of Justice, Chancery Division, and in the matter of the company, and in the matter of "The Companies Act, 1929." It is certainly obvious that this enumeration of the matters to appear in the title is not exhaustive, because the words "Mr. Justice Blank" do not appear, but it is impossible to collect from Ord. 53B, or any other place, the necessity, or desirability, of adding the words "Companies Court" to the title.

Winding up is, of course, on a different footing: Form No. 2 in the Appendix to the Companies (Winding Up) Rules, 1929, which is the general title for the High Court, does contain the words "Companies Court"; but the winding-up rules, and the forms thereunder, have no application to any proceedings other than those connected with winding up. I am far from suggesting that the addition of "Companies Court" to the title is not a desirable one: I think there is much to be said for distinguishing a proceeding going on in Carey Street from one being conducted in Chancery Chambers. Indeed, the cause list recognises the advantage of such a distinguishing mark, and in it, the matters which are in the Companies Court, and headed "Companies Court."

At the present time, when we are all trying to set our respective houses in order, why should not the appropriate authority consider this question? Duplication of work, and overlapping of functions, especially when coupled with the divergent practice which has, to some extent, at any rate, arisen, and is bound to arise, are undesirable at any time, and peculiarly so at the present time. As a practitioner one may say, let us have uniformity, and, as a taxpayer one may say, let us have economy combined with efficiency. Is it too much to hope that we shall, before long, have some attention given to the matter? "Caparisons are odorous," said Mrs. Malaprop, and I certainly do not intend to make any, but it seems logical that company matters should be dealt with in the Companies Court.

(To be continued.)

A Conveyancer's Diary.

The Law of Property (Entailed Interests) (No. 2) Bill.

This Bill was introduced by Lord Blanesborough in the House of Lords last week and read a second time.

The Bill is designed to effect two comparatively small changes in the Law of Property Act, 1925.

The first provision is intended to meet one of the consequences resulting from the decision in *Re Price* [1928] Ch. 579, although leaving untouched the far more important and inequitable consequences which flowed from that decision.

It will be remembered that in that case it was held that where land was, before 1925, held in undivided shares, and one of the undivided shares was held in tail, the imposition of the statutory trusts had the effect of vesting in the tenant in tail of that share an interest in a corresponding share in the proceeds of sale, but operated to vest an absolute interest not an entailed interest.

It appears that it has been considered that it involves a hardship that an entailed estate in an undivided share in land should be converted into an absolute interest in a corresponding share of the proceeds of sale, and s. 1 of the Bill is intended to remedy that state of things by inserting at the end of s. 36 (6) of the S.L.A. and of s. 35 of the L.P.A. the following words :—

" And the right of a person who, if the land had not been made subject to a trust for sale by virtue of this Act, would have been entitled to an entailed interest in an undivided share in the land, shall be deemed to be a right to a corresponding entailed interest in the net proceeds of sale attributable to that share."

So far so good. There can be no objection to the amendment of the law in this respect.

The decision in *Re Price*, however, involved much more than that. The basis of the decision was that the statutory trusts effect a notional conversion for all purposes. The persons formerly entitled in undivided shares have no interest in the land, but only in the proceeds of sale. Clauson, J., said : " By the statutory imposition of a trust for sale the land has, so far as the beneficiaries are concerned, been converted into money. This view of the effect of the Act seems to me not only sound in principle, but to accord with such decisions as *Richards* v. *Attorney-General of Jamaica* and *Frewen* v. *Frewen*, which recognise that the usual consequences follow whether the conversion is effected by agreement or compulsorily by Act of Parliament. The provisions with which I have to deal . . . seem to me to be analogous to the provisions which notionally converted, in the one case cited, slaves, and in the other case cited, an advowson, each real property, into a money claim for compensation."

The fallacy in that line of reasoning has been pointed out over and over again, but the judgment in *Re Price* has been used as an authority for a number of decisions which have wrought great injustice to many people.

I have called attention to those cases several times in this column, but I think this is an occasion for shortly referring to some of them again.

The most important case is *Re Kempthorne : Charles* v. *Kempthorne* [1930] 1 Ch. 268.

In that case the facts were that a testator, by his will dated in 1911, devised to his brother Charles " All my freehold and copyhold property " and bequeathed all his leasehold property and personal estate and effects subject to the payment of his funeral and testamentary expenses, debts and legacies upon trust for his brothers and sisters as therein mentioned.

At the date of his will the testator was entitled to certain undivided shares in freehold property. He died after 1925, and it was held (following *Re Price*) that the testator's interest in the freehold property had, by virtue of the transitional provisions of the L.P.A., become converted into personal property and passed under the gift of personal property, so that his brother Charles took nothing under the devise to him, although, in fact, there had been no conversion at the date of the testator's death.

Maugham, J., considered himself bound by the decision in *Re Price* and decided that the undivided shares in the freehold estate passed under the gift of the personal estate of the testator. In the Court of Appeal the decision of Maugham, J., was affirmed, reliance being placed by Lord Hanworth, M.R., and Lawrence and Russell, L.JJ., upon the decision in *Re Price*.

Another case is *Re Thomas's Will Trusts : Powell* v. *Thomas* [1930] 2 Ch. 67, where the virus of the decision in *Re Price* again appeared to defeat the obvious intention of a testator.

Perhaps the worst case of all was *Re Newman : Slater* v. *Newman* [1930] 2 Ch. 409.

It is sufficient to state the headnote to that case to show in its bald simplicity the iniquitous operation of the so-called doctrine of conversion when applied to the operation of the transitional provisions of the L.P.A.

" In 1922 a testator and his brother John were seised of Blackacre as tenants in common in fee simple in equal undivided moieties. By his will dated 15th May, 1922, the testator specifically devised ' all my moiety or equal half part or share and all other my share in ' Blackacre to John.

On 1st January, 1926, the Law of Property Act, 1925, s. 25, and Sched. I., Pt. IV, para. 1 (2), came into operation and Blackacre thenceforth vested in the testator and John as joint tenants on the statutory trust for sale.

Held, that the specific devise was adeemed by the imposition of the statutory trusts and John took nothing thereunder."

That was a monstrous decision, but it followed *Re Price* and *Re Kempthorne*.

Now, to return to the Bill.

It is obvious that s. 1 is intended to rectify the injustice done by that part of the decision in *Re Price* which would have the effect of converting an entailed estate in an undivided share in land into an absolute interest in a corresponding share in the proceeds of sale where the transitional provisions of the L.P.A. apply.

As I have said, I see no objection to that amendment in the law, but what I cannot understand is how anyone can set about to put right the deplorable decision in *Re Price* without dealing with the radically wrong principle upon which it proceeded. To take the quite subsidiary point involved and legislate for that only, and not to grapple with the really important part of the decision, which has had such disastrous repercussions, is, as my learned friend " J.M.L.", writing in the *Law Journal*, aptly suggests, like straining at a gnat and swallowing not a camel but an elephant !

Curiously enough it has been left to the learned judge who decided *Re Kempthorne* in the court of first instance (following, as he said he was bound to do, *Re Price*) to state the position of owners of undivided shares in land to which the transitional provisions of the L.P.A. have applied—or at least to state it in terms more definite and logical than any judicial pronouncement yet made :—

" There is no doubt that since the coming into force of the Law of Property Act, 1925, the position of undivided owners is different from what it was before. That Act, for the purpose of simplifying the law, has introduced provisions for undivided shares and has made partition actions unnecessary and obsolete. But in substance the beneficial interests of the undivided owners in regard to enjoyment so long as the land remains unsold have not been altered, and it is true to say that the ordinary layman possessed of an undivided share in land would be quite unaware of any alteration in his rights as a result of the Act " (per Maugham, J., in *Re Warren* [1932] 1 Ch. 42).

And, again :—

" But as has been observed before, it is right in the case of complicated legislation such as that of 1925 to place a benevolent construction on the various sections and in a case of doubt to avoid the result that rights possessed before the coming into force of the Act are seriously affected or even destroyed as a consequence of a difference in the legal machinery which the Legislature has thought fit to create in an endeavour to simplify the law " (per Maugham, J., in *Re Davies' Will Trusts* [1932] 1 Ch. 530).

The pith of the matter lies there. The L.P.A. was not intended to interfere with the beneficial rights of parties but only to alter the machinery by which those rights are to be effected. The statutory trusts were imposed for the convenience of conveyancing and not with the intention of creating a notional conversion so as to destroy or even affect rights possessed before the Act. (See in this connection L.P.A., 1925, 1st Sched., Pt. I.) As construed in the cases to which I have referred, and others, the Act has in fact ruthlessly destroyed many such rights.

I must defer further comments on the Bill to next week.

Landlord and Tenant Notebook.

Conduct Evidencing a Tenancy.

The conduct of an alleged tenant may sometimes provide useful evidence in proceedings in which the relationship is disputed. His reaction, or failure to react, to distress levied in the past has been treated as practically conclusive, just as it is conclusive against a landlord when the question of waiver of forfeiture is raised. *Panton* v. *Jones* (1813), 3 Camp. 372, was a case in which the plaintiff relied on having levied a distress in respect of a former gale of rent, or rather on the fact that the defendant had not then replevied; and though the latter's counsel tried to explain away his client's apparent apathy by poverty, or a possible preference for an ordinary action for trespass (for which there was yet time), it was held that he was precluded from denying the plaintiff's title. This authority was followed in *Cooper* v. *Blandy* (1834), 1 Bing. (N.C.) 45, in which the facts were rather more complicated. In 1809 the legal interest in the premises (the "Three Tuns" in Fetter-lane) was vested in trustees of a marriage settlement. A lease for thirty-one years was, however, granted by the husband *cestui que* trust. The tenant, on the other hand, often paid the rent to one of the trustees. The husband died in 1825, and in 1826 by order of the court the property was conveyed to the defendant, who was a creditor of the estate. Meanwhile the tenant had assigned to X, who paid rent to the defendant, and, in 1829, submitted to a distress when in default. Then X assigned to Y, who twice paid rent to the defendant and also submitted to a distress in 1831. The plaintiff obtained possession from Y in the same year and occupied without paying any rent for two and a half years, when the defendant distrained. The plaintiff replevied. He tried to attack the 1809 grant (which need never have been mentioned) as *ultra vires*, but this argument was speedily rejected; and, holding that his mere taking possession implied at least a tenancy from year to year, the court applied *Panton* v. *Jones*, and gave judgment for the defendant. Somewhat similar was *Hill* v. *Ramm* (1843), 5 M. & G. 789, an action for a quarter's rent; a document by which the defendant had given "walking possession" on a former occasion was produced as evidence of the tenancy, and held to be admissible though unstamped.

Proof of occupation by the tenant when a new tenancy has been granted has lost some of its importance since the abolition of the doctrine of *interesse termini*, though it may still be very useful evidence when there is a question of part performance. In this connexion an old case illustrating what will amount to occupation may be of interest. The defendants in *Sullivan* v. *Jones* (1829), 3 C. & P. 579, had undertaken to build, by an agreed date, three houses for a sum payable by instalments as the various stages were reached, and then to take them as tenants for a period of three years. They were about three months late in finishing the houses, and then declined to go on with the bargain, but the plaintiff deducted a quarter's rent from the last instalment of the price, and the defendants acknowledged payment under protest. They left the keys with the plaintiff, but he declined to accept them. Soon after that a "To let" board appeared on the premises, referring those interested to the defendants. And when the plaintiff claimed the next quarter's rent it was held that the erection of the board was an assertion of possession.

Submission to a distress is, however, not conclusive evidence of a tenancy, any more than is payment of rent: and occupation, while it raises a presumption, does not, of course, establish the terms of an agreement. An alleged tenant who had twice satisfied the bailiffs' demands was permitted to dispute the plaintiff's title in *Knight* v. *Cox* (1856), 18 C.B. 645, and to prove that, while the plaintiff was executrix of one of three lessors, one of the other lessors still survived. The evidence afforded by the submission to distresses was considered "very strong," but in the absence of a conveyance to the plaintiff it was held that she could not recover. And as to occupation by putting up a board, the short report of *Robins* v. *Phillips* (1843), 2 L.T. (O.S.) 75, 151, shews that the plaintiff had claimed damages for use and occupation (not specific performance of, or damages for breach of, an agreement for a lease) of a piece of ground; and, on proving a verbal agreement for a ninety-nine years' building lease, and that the defendant had once had a board up for about three weeks, had been awarded some five or six years' rent. On an application for a rule *nisi*, it was submitted that damages should refer only to the period when the board was up, and a new trial was ordered unless the plaintiff agreed to a reduction.

Practice Note.

We publish in full, by kind permission of the Controller of His Majesty's Stationery Office, the official Memorandum which accompanies the New Rules of Procedure.

SUPREME COURT, ENGLAND. PROCEDURE.

MEMORANDUM AS TO THE NEW RULES OF PROCEDURE (*).

For some years past, protests have been raised against the present procedure for bringing litigation before the High Court of Justice, both in the matter of the preparation of the case for trial and in the mode of trial when the issues have been determined. Those protests have urged that the stages before trial are burdensome upon the suitor and that the cost of these preliminaries as well as of the actual trial in Court are so high that many persons are compelled to forego their right to have their cases tried in the Law Courts. They have perforce to adopt some method of deciding them, by another more summary and speedy tribunal.

They have confidence in the Courts and the Judges, and they are anxious to bring their suits before them; but they complain that the approach to them is too prolonged and expensive.

These protests have in the last two years been translated into definite suggestions by Chambers of Commerce and other bodies, with an urgent request to the Lord Chancellor that he would take steps to overcome the difficulties which attend a decision in a Court of Law.

Exception is taken to the present system as set out in the following items:—

(1) The present procedure requires too meticulous precision in "Particulars," discovery and interchange of documents.

(2) Prolonged delay while the above preliminaries are being arranged.

(3) The uncertainty of trials by Jury, involving not rarely a new trial because the Jury have failed to comply with the Judges direction in Law, or it is found afterwards that a misdirection has been given to them.

(4) Multiplicity of appeals.

(5) Delay and uncertainty in reaching the day for trial.

(6) Excessive costs involved in the above.

The Lord Chancellor has given full weight and consideration to these views and called upon the Rule Committee to assist him in finding a solution to meet them.

It may be prefaced that from time to time changes of procedure in the Courts are necessitated by changes in the practice of business men.

Thus the Common Law Procedure Acts of 1852, 1854, 1860, were passed in response to cogent assertions that the proceedings in the Courts at those dates were unnecessarily tedious and costly.

Twenty years later the Judicature Acts recast the personnel and procedure of the Courts; and in 1883 new Rules were framed from which the Annual Practice and the Yearly

* The Rules of the Supreme Court (New Procedure), 1932. S.R. & O. 1932 No. 252

Practice with their pages, careful and accurate but innumerable, have been brought into being.

It must be agreed that in recent years the easy production of letters and memoranda due to the mechanical processes now available, have multiplied the documents involved in a comparatively simple business transaction; and to prepare all these for the Judge and Counsel and to produce them in Court involves an expenditure of time and money which hampers the easy progress of a suit.

It is not surprising, therefore, that at the present day criticisms and demands have arisen which are akin to those above referred to.

With the purpose of overcoming these difficulties, the Rule Committee after deliberations extending over several months, have formulated rules, framed on the analogy of the Commercial Court under the heading—New Procedure Rules.

The first step is to determine what case is suitable for the new and abridged procedure. This will be secured under Rule 3, by the Solicitor acting for the Plaintiff who issues the writ, indorsing on the writ a certificate in the simple words—"Fit for the New Procedure"—with his signature. It is not easy to make an exhaustive definition of such cases; but those who know what the issues will be can decide whether the litigation is likely to prove complex or simple and are entrusted with this responsibility. Solicitors, who are officers of the Court, and upon whom the Court relies as intermediaries between their clients and the Judicial authorities, have proved their capacity of judgment for such a task in their handling of the Poor Persons Rules, and their assistance in this initial step will be welcomed, to ensure that the new list is not filled with cases which prove unwieldy for direct and speedy methods. Should a mistake be made on this point at the outset, the Judge can correct it and transfer the case back to the ordinary list under Rule 8 (2) (*d*).

Certain cases are definitely excluded from the New Procedure—actions for libel, slander, malicious prosecution, false imprisonment, seduction, breach of promise of marriage and actions where fraud is alleged by the Plaintiff.

With his writ or within seven days of the Defendant's entry of appearance, the Plaintiff is to deliver a Statement of Claim "with all proper particulars," and within seven days of the delivery of this Statement of Claim, the Defendant, without asking for further particulars, is to deliver his Defence with all proper particulars.

In a suitable case, the above steps can be complied with without much difficulty and the parties will have indicated the issues, and the points on which they rely.

Then comes the important step in the procedure. The Plaintiff is to take out a summons for directions within seven days of the delivery of the Defence or of the Reply—if any; and that summons is as far as possible to be dealt with by the Judge who will try the case. Provision is made for the Judge to delegate to a Master these summonses, if for any reason he himself finds it impossible to hear them. But it will be seen that Rule 13 provides that the Master acts in effect for the Judge, and if there is an appeal, that appeal is to the Judge who is in charge of the list, and final without his special leave.

Upon the hearing of the summons, directions may be given by the Judge as to any further particulars required owing to a default to give them in the first instance, and as to discovery and inspection of documents, with a control in his hand as to the costs involved on this first head, and as to discovery and inspection of documents the test is "as he may think necessary or desirable having regard to the issues raised."

As he will try the case—Rule 9 (2)—the parties may rely upon his decision not causing prejudice to either side, and upon his discretion to remedy any unforeseen omission that is revealed at the trial.

Power is given to set down the case for trial at assizes; to transfer to a County Court; to limit the number of expert witnesses; and providing for proof by an affidavit within the limits that such a course can be adopted with safety; and to refer a question involving expert knowledge to a special referee for inquiry and report.

Then follow two important provisions.

The first is that the Judge may "order the action or any issue therein to be tried with or without a jury as in his discretion he may think fit." This restores a discretion which was in operation during the War and no doubt will be carefully exercised. Not infrequently a jury is asked for by one of the parties; and when the case if actually opened in Court, it is found quite unsuited to their consideration and they are discharged.

Trial before a jury requires longer time than before a Judge alone. Speeches of Counsel, the evidence, the summing up, must be elaborated to make plain what can be expressed in shorter terms to a Judge equipped by his experience to appreciate the salient points of a case, and there are the uncertainties and mischances possible as stated above from the intervention of a Jury.

If trials are to be less costly they must be shorter.

The second is that he may record "the consent of the parties either wholly excluding their right of appeal, or limiting it to the Court of Appeal, or limiting it to questions of law only." It will be observed that such a limitation depends entirely upon the consent of the Parties, as indeed it must, unless legislation were passed for the purpose. Yet this power will enable the Judge to present the possibility of reaching finality to the parties, and if they do not reach an agreement on the point, at least they will have no justification for expressing surprise or discontent if their case passes upwards from Court to Court.

By Rule 9, the Judge may fix a day for the trial of the action, and "the action shall as far as possible be tried on that day," and "by the Judge who heard the summons for directions."

These two desiderata are not easy of attainment. Some cases are unexpectedly long and the Judge is detained. Some cases prove shorter than was anticipated and the Judge is without work till the date for the trial of the next case arrives. There are the changes and chances of this world. Illness may overtake Judge, Counsel, the Parties or their Witnesses.

An effort is to be made to meet these uncertainties by detailing two Judges, who will sit in London continuously for a substantial span, to take charge of the new list. If one is detained, the other may be free, and thus it may be possible to adhere to the dates fixed for the suitors. Even if it is not possible that the same Judge who heard the summons for directions shall try the case, it will probably be tried by his colleague in charge of the list.

A special Rule—2—provides means for a Defendant in an ordinary action to claim that it shall be transferred to the new procedure list, and Rule 1 (11) fits his application into the system already described.

Provision is made for the New Procedure Rules to apply to actions commenced in the District Registries of Liverpool and Manchester, and the District Registrar in such cases is substituted for the Judge. With the Registrar's leave there can be an appeal to the Judge in charge of the new list, but decision of the latter is final without his leave to go further.

These new rules are not to shorten the powers that a Judge at present holds under the existing rules—they are in addition—not a subtraction—and provision is made to fit them into the existing system where it is necessary to do so. For instance, by Rule 10, where an action is commenced as a new procedure action and subsequently fraud is alleged, the party against whom the charge is made, if he so desires, can require the action to be transferred to the ordinary list; and by Rule 12 the new procedure is brought into alignment with Order XIV.

Above all, the powers of the Judge taking the list are made discretionary, and there is not to be an appeal from his decision without his leave. This provision will make him master of the procedure, and it is hoped preserve the Court

of Appeal from constant applications and appeals on matters which are not vital to the issues that the parties desire to have determined.

It will prevent the unhappy result that followed from the Rules of 1883, when a Divisional Court was constantly engaged in resolving problems that those rules presented without any corresponding advantages to the suitors.

When those Rules of 1883 were framed, Mr. Justice FIELD—afterwards Lord FIELD—sat in Judges Chambers at the request of Lord SELBORNE to initiate the new procedure, and it was the impotence to prevent appeals that destroyed the value of that Judge's great experience, and led to the passing of (Lord) Finlay's Act in 1894.

That Statute begins with the significant words "No appeal shall lie," and the cases to which that prohibition applies, and the exceptions from it, follow. The opening words are in themselves a commentary upon the conditions existing at the time, and reveal an aspiration for the attainment of finality.

The present attempt is one that offers great possibilities to suitors where there exists an effort to reach a conclusion of disputes at a reasonable expenditure of time and money. No system can appeal successfully to those who are hostile to it.

Where, however, there is a desire, such as the Chambers of Commerce assert does exist, to approach the Courts at less cost than is involved in many complex actions of to-day and with well-founded hope for an early and final decision, the New Procedure Rules may be offered with some confidence to men of goodwill.

Our County Court Letter.

CONTRACTS *UBERRIMÆ FIDEI*.

THE fact that insurance policies are within the above category was recently illustrated at Nottingham County Court in *Saunders* v. *Royal London Mutual Insurance Society Limited*, in which the claim was for the amount due on the death of the plaintiff's late husband. The latter had died on the 20th July, 1931, after working up to the previous four days, but liability under his life assurance policy was disputed on the ground of inaccurate answers in the proposal form, e.g.: "Have you ever had any disease of the heart?—No"; and "What medical attention have you received in the last five years?—None." The plaintiff's case was that, having been married in 1892, she left her husband in 1924 (up to which date he had never had a doctor), and was unaware of his state of health, although she admitted having taken out nine policies on his life. The medical evidence was that heart disease first appeared in 1927, but there were not many symptoms, and the deceased was merely warned not to exert himself, although he went to a convalescent home every August. His Honour Judge Hildyard, K.C., observed that the proposal was in common form and insurance policies must be based upon truth. Judgment was therefore given for the defendants, with costs. [See the previous article: "Insurance. Mis-statements in Proposal Forms" in our issue of the 16th January, 1932 (76 SOL. J. 38 *et seq.*)]

SHOOTING A DOG PURSUING GAME.

A REMARKABLE case came before the Slough magistrates recently in which two men named Merison and Clark were summoned for shooting a dog and stealing its collar. The first-named defendant rented the shooting over the land where the incident took place, and the other defendant was a friend whom he had invited to come and shoot wood-pigeons. The owner of the dog said he was taking the animal for a walk along a pathway and the dog left him for a short time, when he heard a shot fired, and he saw the defendants with guns. Another shot was fired, and the dog screamed in agony. Five or ten seconds later another shot was fired, and he then knew that the dog had been killed. He asked them if they had shot his dog, but Clark denied having done so. They also refused their names and addresses; but he found his dog dead with gunshot wounds in the neck. When he found the dog's body he could not find the collar. It subsequently transpired that the collar was handed to a police constable by Clark. The defendant Merison told the officer that he shot the dog because it had scared two brace of partridges. Clark said the dog was chasing a hare, and produced the collar. The dog was 500 yards from the public footpath. He considered he had a right to shoot it as it was chasing partridges. The magistrates dismissed the case. This decision, whilst undoubtedly right as regards "stealing" the collar, would appear to leave untouched the question of the legality of shooting a dog which is merely chasing wild game—a subject upon which the law has been laid down again and again in favour of the dog.

COUNTY COURT CALENDAR FOR MAY, 1932.

The following sittings on Circuit 36 were omitted from the Calendar for May in last week's issue:—

Circuit 36—Berkshire, etc.

HIS HON. JUDGE RANDOLPH, K.C.

*Aylesbury, 5 (R.B.), 6, 23 (R.B.), 24 (R.B.)
Buckingham, 20
Chipping Norton, 18 (R.)
Henley-on-Thames, 10 (R.)
High Wycombe, 5
*Oxford, 5 (R.B.), 9, 23 (R.B.), 24 (R.B.)
*Reading, 5 (R.B.), 12, 13, 24 (R.B.)
Shipston-on-Stour, 10
Thame, 19
Wallingford,
Wantage,
*Windsor, 5 (R.B.), 18, 23 (R.B.), 24 (R.B.)
Witney, 11

Obituary.

MR. G. F. BASSETT.

Mr. George Forbes Bassett, solicitor, for over thirty-five years Clerk to the Southampton Justices, died suddenly on Wednesday, the 27th April, at the age of seventy-three. He was educated at Marlborough, where he was a member of the rugby fifteen, and at Brasenose, where he won the B.N.C. boxing belt and rowed in the eight. Mr. Bassett, who was the son of a former President of The Law Society, was admitted a solicitor in 1884.

MR. G. M. PECK.

Mr. Geoffrey Musgrave Peck, solicitor, of Haigh, near Wigan, died in a nursing home on Monday, the 25th April, following a dog bite. Mr. Peck, who was admitted a solicitor in 1903, practised in Wigan, where he was well known, and he was also managing director of Messrs. John Sumner & Co., brewers, of Haigh. He was fifty years of age.

MR. W. G. ELSMORE.

Mr. W. G. Elsmore, solicitor, of Queen-street, E.C.4, and Ilford, died in hospital after an operation on Thursday, the 28th April, at the age of sixty-one. Mr. Elsmore was admitted a solicitor in 1908, after taking second-class honours. He was secretary of the Cranbrook Ward of the Ilford Liberal Association in 1929, and was secretary of the Ilford Chess Club for many years.

Mr. Edward Marjoribanks, M.P., barrister-at-law, of Victoria-square, S.W., left estate of the gross value of £22,961, with net personalty £21,363. He left £5,000 to Christ Church, Oxford, for the foundation of one scholarship in Classics. His personal effects to The Hon. Quintin Hogg, and after certain minor bequests, the residue of the property to his stepfather, Lord Hailsham.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Settlement—Incidence and Payment of Death Duties.

Q. 2461. T by his will directed his trustees to set aside and invest a sum of £1,300, and to pay the income thereof to his nephew D for life, and after his death to pay the said sum of £1,300 in equal shares to D's children living at the date of testator's death. A freehold farm was also devised on similar trusts. T also bequeathed to D absolutely a one-fifth share in the residuary estate.

(1) Should the trustees invest the whole sum of £1,300 and pay the legacy duty out of the residuary estate, or should they first deduct the legacy duty and invest the net amount? (See L.D.A., 1796, s. 12).

(2) Is it in order for the trustees to pay the estate duty on the freehold farm out of the residuary estate? We maintain that freehold property must pay its own estate duty.

(3) By virtue of s. 78 (2) of the S.L.A., 1925, could the trustees employ part of the legacy of £1,300 to pay the estate duty on the freehold farm instead of creating a charge on the farm itself? The trusts are identical.

A receiver has been appointed to D's interest under the will, and we are anxious to swell the residuary estate as much as possible.

A. (1) As the rate of duty applicable to the tenant for life and the reversioners is the same, the duty is to be charged on the legacy and paid as if it were a legacy to one and the same person; that is to say, that the legacy, unless given duty free, must bear its own duty (L.D.A., 1796, s. 12.) It is, therefore, the net legacy, after the payment of the duty, which is to be invested.

(2) We agree that the freehold farm must bear its own duty. Freeholds do not pass to the executors as such, but by force of the A.E.A., 1925, s. 1, a provision that does not affect the incidence and payment of death duties (*ibid.*, s. 53 (3)). See s. 9 (1) of the Finance Act, 1894.

(3) It would appear that this can be done with safety. The £1,300 legacy is to be held upon the like trusts as if the same were capital money arising from the freeholds (S.L.A., 1925, s. 78 (2)). As capital money can be used in the discharge of incumbrances affecting the whole estate, the subject of the settlement (*ibid.*, s. 73 (1) (ii)), it would surely not be a breach of trust to pay a liability that if not so paid would result in such an incumbrance.

Wife dead in lifetime of Husband who is since dead—Grant of Administration in Estate of Wife to a Child.

Q. 2462. Wife died intestate in 1917, leaving husband and five children. The only property consisted of a reversionary interest under her brother's will. The husband did not take out a grant of administration, and himself died intestate in 1920 without having re-married. No grant has been taken out to his estate. He left no property. The reversionary interest has now fallen into possession, and it is desired to obtain representation to the wife's estate. Only one of the five children of the husband and wife is in England, and she wishes to apply for a grant of representation to the wife's estate. Can she do so direct, seeing that the husband did not reduce the reversionary interest into possession by obtaining a grant, or must she first obtain representation to the husband's estate and then apply for a grant to the wife's estate as the husband's legal personal representative?

A. Had all parties died since 1925, the grant would have gone clearly to the child direct (A.E.A., 1925, s. 10; see also form of oath at p. 164 of the 14th ed. of "The Practitioner's Probate Manual"). As, however, the wife died before 1926, so that the husband took the whole of her personal estate under s. 25 of the Statute of Frauds, we express the opinion that the grant will follow the interest and be made to the personal representatives (when constituted) of the husband (*Fielder* v. *Hanger*, 3 Hagg. Eccl. 769; *Re Pountney*, 4 Hagg. Eccl. 289). As the point is somewhat obscure, we suggest that, if it can be arranged, the form of the papers be settled with the Clerk in the Seat before preparation.

Industrial and Provident Society—Amalgamation—Effect on a "Nomination."

Q. 2463. A is a member of the M Co-operative Society incorporated under the Industrial and Provident Societies Acts and nominates to B certain moneys therein. The M Co-operative Society subsequently amalgamates with the P Co-operative Society, and the amalgamated society is known as the P Co-operative Society. Can the amalgamated P Co-operative Society act on the nomination made by A whilst a member of M Society?

A. The power of nomination conferred by the Industrial and Provident Societies Act, 1893 (56 & 57 Vict. c. 39), ss. 25-27, is in the nature of a testamentary disposition, and presumably subject to the same rules of construction. As the M Society has ceased to exist in the sense of having suffered an absolute annihilation or extinction, the interests therein having been replaced by interests in another concern, we express the opinion that the nomination is adeemed. We regret that we have not been able to trace any authority on the point. See as to the ademption of a legacy of stock in similar circumstances in *Re Slater* [1907] 1 Ch. 665.

Railway Company's Liability on Cheap Tickets.

Q. 2464. In a recent railway accident one passenger carriage was damaged by running into a cow; one wheel of the carriage coming off. Although our client pulled the communication cord the train did not stop, but went on a matter of three miles until it came to some points when the damaged carriage went one way and the train the other. Our client is a girl who lives in one town and travels daily to the next by train to work. Her claim is more for shock, knowing the line so well and waiting for three miles to come to the points, than for any actual physical injury to her. She buys her ticket daily and habitually asks for a third single return. In fact she is given a ticket called "cheap day," which has on the front of it "for conditions see back," and on the reverse the following: "This ticket is not transferable. The passenger and his/her property are conveyed at his/her own risk in case of injury, damage, loss or delay, however caused, and subject to the company's bye-laws and the conditions in their time tables and notices." In fact there is no return ticket between the stations in question except this cheap day ticket. Our client, who is of age, knew she was receiving a cheap day ticket, although this was not what she asked for, and did not appreciate the distinction as regards the railway company's liability between the one and the other. Having regard to "Halsbury's Laws of England," vol. 4,

pp. 53-54, are the company liable for negligence to our client, or have they contracted out of any such liability?

A. The passenger was not travelling by an excursion train, and therefore, the case is distinguishable from *Thompson* v. *London Midland and Scottish Railway Company* [1930] 1 K.B. 41. The question of liability upon cheap tickets by ordinary trains has since been answered, however, in *Penton* v. *Southern Railway Company* [1931] 2 K.B. 103. In that case the ticket bore upon the back a condition that the holder should have no right of action against the company for injuries "however caused"—a phrase which also appears upon the ticket in the present case. On the issue as to whether the passenger knew of this condition, the question states that she "knew she was receiving a cheap day ticket, although this was not what she asked for." According to the first paragraph of the question, what she did ask for was a "third single return"—which is a contradiction in terms. As the proposed plaintiff was a regular traveller, and the company had issued similar tickets every day, the inference is that reasonable steps were taken to bring the condition to the passenger's notice. As the plaintiff has in fact suffered no physical injury, the element of sympathy on the part of the jury is lacking, but even if negligence were proved, the company has contracted out of liability, having regard to the questioners' quotations from "Halsbury's Laws of England" and two recent cases, *supra*.

Damage by Escaped Prisoners.

Q. 2465. A is a fisherman, who for some years past has left his boats unattended on the seashore at "Sealands." Six miles away from "Sealands" there is an establishment formerly used as a prison for convicts. A few months ago all the prisoners were removed from the prison and such building was turned into a Borstal Institution, and is now occupied by boys serving under sentences of detention. Recently two boys escaped from such institution, and in trying to make good their escape tried to launch A's boats, and by such act caused considerable damage to these boats. Has A any claim against the governor of the institution, the Prison Commissioners or any other person (except the boys) for the damage so suffered. If so, what steps should be taken to enforce payment. Does the case of *Rylands* v. *Fletcher* help?

A. The Convict Prisons Act, 1850, s. 2, provided that the directors of convict prisons should be a body corporate, with perpetual succession and a common seal, and could sue and be sued in all courts and before justices and others. The same Act, s. 1, provided that the provisions of the Transportation Act, 1824, should be applicable to such directors, who, under s. 15 of the last-named Act, therefore became answerable for any escape of an offender. The directors of convict prisons are now the Prison Commissioners, under the Prison Act, 1898, s. 1, and, under the Prevention of Crime Act, 1908, s. 4, the Prison Commissioners are authorised to acquire any buildings as a Borstal Institution, which by s. 4 (2) is to be subject to the Prison Acts as if it were a prison. The result is that A can sue the Prison Commissioners for the damage to his boats, as the words "answerable for escape" (in the Transportation Act, 1824, s. 15, *supra*), must imply liability to third parties. The statute is silent with regard to the person or persons to whom the Commissioners shall be answerable, but they would necessarily be answerable to the Secretary of State for an escape, and the inclusion of the above phrase (coupled with the liability to be sued) affords a cause of action to members of the public. In view of the express wording of the statute, A's remedy therefore exists, apart from the doctrine of *Rylands* v. *Fletcher*. In any case it is doubtful whether that principle is applicable to prisoners, except criminal lunatics and motor bandits. If an application for reimbursement of the damage is unsuccessful, an action should be commenced in the county court.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Sir Thomas Widdrington, who died on the 13th May, 1664, was one of the more reputable of the chameleon lawyers who adapted themselves by timely changes of political colour to the varying fortunes of the Civil Wars, the Commonwealth and the restored monarchy. In 1633, as Recorder of Berwick, he had occasion to address a loyal speech to Charles I expressing the hope "that the throne of King Charles, the great and wise son of our British Solomon, may be that of King David, the father of Solomon, established before the Lord for ever." In 1639, as Recorder of York, he repeated the performance and was knighted. In 1640 he entered Parliament and in 1648 was a Commissioner of the Great Seal. To his credit, however, it must be noted that he opposed the trial of the King and at first refused to act under the new Government. He was nevertheless appointed Serjeant, and in 1654 consented to act as Commissioner of the Great Seal, but lost the office next year through opposing Cromwell's Chancery reforms. In 1656 he moved the "humble petition and address" to the Dictator to become King, and on his installation as Protector, administered the oath and delivered to him the purple robe, the sceptre and the sword. After that he was Chief Baron of the Exchequer for a time, and then once again a Commissioner of the Great Seal. On the Restoration he was not disgraced, but was the first of the re-appointed Serjeants.

THEFT IN COURT.

It is reported that the Paris Law Courts are suffering from an epidemic of larceny. One judge has had his overcoat stolen from his private room and another actually suspended proceedings in his court while an alleged workman boldly removed the clock "for cleaning." That particular trick, by the way, has been played in a London police station. It was, I believe, Sir John Sylvester, Recorder of London, who lost his watch through remarking in open court that he had left it at home that day. The individual in the dock at the time was acquitted and on being released went straight to the judge's house with a message to Lady Sylvester to send the watch to court by him. It never reached its owner. An Old Bailey story of the sixteenth century tells of a trick played on a tiresome old justice who never missed a chance of telling people who prosecuted cut-purses that they were to blame for not looking after their property. Weary of this refrain, that prince of legal humourists, Sir Thomas More, who at this time was one of the City judges, sought out a proficient cut-purse in the cells and gave him appropriate instructions. When he was brought up for trial, the fellow asked for a private word with a member of the court, selected the tiresome justice and while he whispered to him took possession of his purse. When More saw that the deed was done, he proposed a subscription for a certain discharged prisoner, himself setting a liberal example. At this point the victim of the joke discovered his loss, whereupon More had his property restored to him with a few words of humorous admonition.

PRINCETOWN TOPICS.

If you only wait long enough, all fictions, however fantastic, come true sooner or later. Lord Morris, one of the wittiest of Ireland's Chief Justices, had an anecdote, probably apocryphal, of an incident at the assizes for a certain rather disturbed county. "'Gentlemen of the Grand Jury,' said I to them, 'will you take your accustomed places,' and may I never laugh if they didn't all walk into the dock!" And now, at the Princetown Assize, it was in the dock that the grand jury, headed by a former Director of Public Prosecutions, was actually accommodated. Held where the local cinema is shown, these proceedings have competed with the Hollywood stars on their own ground, and again it has been proved that the ancient ceremonial of the law retains its supremacy

in entertainment value. Sir Ernest Wild, K.C., the Recorder of London, recently made a suggestion for realising this asset. He said, "People come into the gallery and other parts of the court day after day and think it is a theatre, but they never give to the boxes for discharged prisoners. If they think it is a cinema, they might give a quarter of what they pay for a cinema." There seems to have been more of a change in frankness than in fact since Lord Coleridge's famous ejaculation in the *Baccarat Case*: "Silence! This is not a theatre!" For no one had done more than the Chief Justice to make a social function and a dramatic spectacle of the proceedings.

Reviews.

De Omnibus Rebus. By the late D. F. de L'Hoste Ranking, M.A., LL.D. Selected and edited by Robert A. Harting, F.C.A. 1932. Demy 8vo. pp. x and (with Index) 207. London: Gee & Co. (Publishers), Ltd. 7s. 6d. net.

This book contains a selection of the articles which the late Dr. D. F. de l'Hoste Ranking contributed for many years to *The Accountants' Journal* under the heading "*De Omnibus Rebus.*" The articles, which the author described as "mental jerks," deal with a variety of legal matters in an interesting and amusing manner. Some of the decisions which he discusses have since been altered or reversed in the courts, but that does not in any way detract from the excellence of his work. The publishers announce that as a mark of their appreciation of Dr. Ranking's great services to the accountancy profession, they have arranged to set aside the whole of the profits received from the sale of this book for the benefit of his widow.

The Book of English Law. By Edward Jenks, D.C.L. (Oxon), Hon. D. Litt. (Wales), Barrister-at-Law, Emeritus Professor of English Law in the University of London. Third (Revised) Edition, 1932. Demy 8vo. pp. xix and (with Index) 460. London: John Murray. 12s. net.

This is the third edition of Professor Jenks' admirable book which first appeared in 1928, and of which we published a lengthy review by Professor T. A. Levi, M.A. (72 Sol. J. 509). The new edition is an attractive volume, which has been revised to include changes in the law up to the end of 1931. Based as it is upon a course of lectures delivered to University audiences of a non-professional character, the book describes the framework and principles of the whole of English law in a way that can be understood by the educated layman. The preface tells us that it is not intended to be "useful" in the commercial sense of the word, but rather to be of benefit to laymen interested in the place of law in modern communities and its influence on economic and social conditions. It has not, therefore, been burdened with an elaborate system of footnotes and references as in most legal text-books, but a select bibliography has been included for those readers who wish to pursue the subject further. There is a valuable foreword by Lord Atkin, who concludes by saying: "Though this book cannot be guaranteed to make its reader a better citizen, it can be guaranteed to make him better equipped to be a good citizen." The book accurately describes our law and procedure, and although limited to little more than 400 pages nothing of real importance has been omitted.

A British Brief: England's Reparation Victims and War Debt. By Edward Mousley, M.A., LL.B., of Lincoln's Inn, Barrister-at-Law. 1932. Crown 8vo. pp. (with Index) 206. London: Hutchinson & Co. (Publishers), Ltd. 5s. net.

This volume, written by the Legal Adviser to the Reparation Claims Department, is of interest to all members of the British public who are concerned to see that the unremembered civilian war claimant should obtain what is due to him. Many of these claimants, we are told, are poor and friendless and cannot afford to pay for legal guidance. In view of the fact that the curtain is now being rung down on reparations it has been represented to the author as a duty to explain the claimants' case on its merits so that an intelligent public view can be taken of the position. It is sufficient to say that the case put forward by the writer is complete, convincing, and withal written with that due restraint which is essential to the achievement of the object in view.

Books Received.

Income Tax Law, Practice and Administration. By F. F. Sharles, Fellow of the Society of Incorporated Accountants and Auditors, R. P. Croom-Johnson, of the Inner Temple, one of His Majesty's Counsel, W. J. Eccott, formerly one of His Majesty's Principal Inspectors of Taxes, and L. C. Graham Dixon, of the Inner Temple, Barrister-at-Law. 1932. In two volumes. Large crown 4to, half-leather gilt, loose leaf, 1,432 pp. London: Sir Isaac Pitman and Sons, Ltd. 84s. net.

The Law of Hire and Hire-Purchase. By A. A. Pereira, M.A., of the Inner Temple and South Eastern Circuit, Barrister-at-Law. 1932. Crown 8vo. pp. xxxvi and (with Index) 243. London: Butterworth & Co. (Publishers) Limited. 15s. net.

Banking and Currency. By Ernest Sykes, B.A. (Oxon), Secretary of the Institute of Bankers. Seventh Edition. 1932. Demy 8vo. pp. xiv and (with Index) 308. London: Butterworth & Co. (Publishers) Limited. 5s. net.

The English Reports. Index of Cases. In Two Volumes 1932. Royal 8vo. pp. 1940. Edinburgh: W. Green and Son, Ltd. £6 6s. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London and Liverpool.]

Correspondence.

A Jury Mystery.

Sir,—A "traverse jury" appears to be either a jury summoned to try issues in civil actions in which some of the pleadings have been traversed or one summoned to find verdicts on indictments which have been traversed. The jury summons in question having emanated from the Old (or New) Bailey, it evidently comes under the latter head; and the word "traverse" is at its head to denote that the juror is to try indictments and not to make assessments or for other purposes.

Juries in by-gone days used to be summoned by custom (particularly in London) as well as by Statute, and probably it was the custom in London to place the word "traverse" at the head of the summons so as to let the juror know for what purpose he was needed. London adheres to old customs, but what was well known there two or three hundred years ago is to-day forgotten.

If D.E.E. will refer to "les Termes de la Ley" (seventeenth century) or to Jacob's Law Dictionary (eighteenth century) under "Traverse" he will find, particularly in the latter, a good deal on the law on traverse; but, as touching a jury, only that a jury has to find a verdict on the thing traversed.

Norwich. J.E.T.P.

4th May.

Notes of Cases.

House of Lords.

Banco de Portugal *v.* **Waterlow & Sons, Limited.**

28th April.

CONTRACT—CONVERSION—PRINTING BANK NOTES FOR BANK—PLATES LEFT IN POSSESSION OF PRINTERS—UNAUTHORISED USE OF PLATES—ISSUE OF NOTES—REASONABLE CARE.

These were two consolidated appeals both of which related to the measure of damages to be awarded.

In the action the plaintiffs, a Portuguese bank, entered into a contract with the defendants, who were printers, that they, the defendants, should print the authorised notes for the bank, the plates being left in the defendants' possession, and being intended to be available only for the purposes of the bank. By means of fraud the defendants were induced by an unauthorised person to print from the plates a large quantity of notes and to deliver the notes to him, with the result that they were put into circulation. In consequence of the fraud the plaintiffs honoured a large number of the spurious notes, and found it necessary to withdraw genuine notes from circulation, there being at that time no means of distinguishing them. The bank claimed damages for breach of contract, negligence and conversion. Wright, J., entered judgment for £569,421 in favour of the bank, but the Court of Appeal reduced the damages to £300,000. On the present appeals Messrs. Waterlow maintained that the only loss suffered by the bank was the loss of printing and paper. The bank maintained that judgment ought to be entered for them for £610,392, or alternatively, £569,421.

THE LORD CHANCELLOR, in giving judgment in favour of the bank, said that in his opinion the bank had no alternative on 7th December but to do what they in fact did, and he agreed that 26th December was the date on which the bank knew how to distinguish certain of the notes. Once it was found, as it had in this case, that the bank acted reasonably and that Messrs. Waterlow committed a breach of contract, the consequences from such action must be damages which the bank were entitled to receive as the probable result of the breach. There were cases where a person deprived of a chattel by the negligence of another was entitled to recover the replacement value of the chattel, but here the issue of the notes, which the bank were entitled to do, made all the difference. For the reasons stated, his lordship was of opinion that the appeal of the bank succeeded, and that judgment should be entered for the bank for £610,392. The appeal of Messrs. Waterlow should be dismissed.

Lord ATKIN and Lord MACMILLAN gave judgment to the same effect.

Lord WARRINGTON OF CLYFFE and Lord RUSSELL OF KILLOWEN dissented.

Counsel: Gavin Simonds, K.C., *Norman Birkett*, K.C., *James Wylie* and *Bensley Wells; Stuart Bevan*, K.C., *Le Quesne*, K.C., *Somervell*, K.C., and *H. L. Parker*.

SOLICITORS: *Johnson, Jecks & Colclough; Travers-Smith, Braithwaite & Co.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

***Re* Burford: Burford** *v.* **Clifford.**

Bennett, J. 12th and 13th April.

THIRD PARTY NOTICE—R.S.C. ORDER 16A, RULE 12—ADMINISTRATORS OF ESTATE—SOLICITORS.

The plaintiffs in the action out of which this question arose were beneficiaries under the will of the late William Francis Burford. The defendants Burford were administrators of the estate of the deceased. The defendants Clifford were solicitors to the administrators. In November, 1930, the defendants Burford gave the defendants Clifford a cheque-book in which all the cheques had been signed by them in blank as administrators of the estate. In January, 1931, authorised by them, as it was alleged, the defendants Clifford filled in a cheque for £1,878 19s. payable to Arthur Wheeler and Co., outside stockbrokers, whom they instructed to buy 5 per cent. War Loan for the purpose of providing for certain annuities under the will. The firm, which was then hopelessly insolvent, was in March, 1931, adjudicated bankrupt, the whole sum paid to them being lost. In their action the plaintiffs claimed a declaration that the defendants were jointly and severally liable to make good the loss and an order to them to do so. The defendants Burford now served on the defendants Clifford a third party notice under R.S.C. Ord. 16A, r. 12, claiming (1) indemnity, (2) contribution, (3) (*a*) a declaration that the sum had been lost by their negligence in breach of their fiduciary duty as solicitors to the administrators of the estate, (*b*) £1,878 19s. as damages for negligence or alternatively as compensation for the loss.

BENNETT, J., in giving judgment, said that the case against the defendants Burford was founded on express trust and against the defendants Clifford on constructive trust. The question was whether he should permit the defendants Burford to claim indemnity and contribution against the defendants Clifford, and in addition to enable them to litigate against the defendants Clifford the matters indicated in the notice. If these matters were outside Ord. 16A, r. 12, no order should be made. So far as the relief beyond contribution and indemnity was concerned, sub-para. (*a*) of the rule was not in point. As to sub-para. (*b*) the relief claimed by the defendants Burford was not substantially the same as that claimed by the plaintiffs—it was not restitution but damages for loss caused by breach of a duty owed to them by the defendants Clifford. As to sub-para. (*c*) the question raised by the applicants was not substantially the same as that arising between the plaintiffs and defendants—it arose out of a breach of duty as solicitors and nothing else. The defendants Burford might therefore raise no questions beyond contribution and indemnity.

COUNSEL: *J. N. Gray; Hodge; Roxburgh.*

SOLICITORS: *Peacock & Goddard*, for *Moody & Wooley*, of Derby; *Peachey & Co.*, for *H. B. Clayton & Son*, of Nottingham.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Himley Estates Ltd. and Humble Investments Ltd. *v.* **Commissioners of Inland Revenue.**

Rowlatt, J. 22nd March.

REVENUE — SUPER-TAX — COMPANY'S INCOME — WHETHER REASONABLE PART DISTRIBUTED—TO BE DEEMED INCOME OF MEMBERS—COMPANY CONTROLLED BY "NOT MORE THAN FIVE PERSONS"—"CONTROL" MEANS "ACTUAL CONTROL"—FINANCE ACT, 1922 (12 & 13 Geo. 5, c. 17), s. 21 (6).

This was an appeal by Himley Estates Ltd. and Humble Investments Ltd. against a decision of the Board of Referees.

The only question which fell for consideration by the Board of Referees was whether or not Humble was a company to which s. 21 of the Finance Act, 1922, as amended by s. 31 of the Finance Act, 1927, applied, it being agreed that if Humble was such a company it had not distributed a reasonable part of its actual income for the year ended the 31st March, 1928. The question of the application of the section, s. 21, to Humble depended on whether Humble was a company which was under the "control of not more than five persons," within the meaning of sub-s. (6) of s. 21. Humble was a private company with a nominal capital of £2,000, divided into 1,000 ordinary

shares of £1 each and 1,000 preference shares of £1 each. There had been issued and fully paid fifty ordinary shares, which were held by Viscount Ednam, one of the two directors of the company, and 700 preference shares, held in blocks of fifty by fourteen different persons. All the shares carried equal voting rights. The directors had power to issue to themselves or to their nominees the unissued shares and so secure a preponderance of voting strength. In those circumstances the Board of Referees found that Humble was under the control of not more than five persons, and that, therefore, s. 21 of the Finance Act, 1922, applied to it. The companies now appealed.

ROWLATT, J., referred to the facts, and said that all the shares carrying equal voting rights Viscount Ednam was in a minority of one to fourteen. The question then was whether the case could be brought within the definition in the last paragraph of sub-s. (6) of s. 21, which provided that: "A company shall be deemed to be under the control of any persons where the majority of the voting power or shares is in the hands of those persons or relatives or nominees of those persons, or where the control is by any other means whatever in the hands of those persons." "Control," in his judgment, apart from the artificial instances specifically mentioned, meant "actual control." He thought that in the interests of precision the above sub-section clause called loudly for re-drafting. Appeal allowed.

COUNSEL: *Latter*, K.C., and *Andrewes Uthwatt*, for the appellants; *The Attorney-General* (Sir Thomas Inskip, K.C.), *Stamp* and *R. P. Hills*, for the Crown.

SOLICITORS: *Taylor & Humbert; Solicitor of Inland Revenue.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.

Parliamentary News.

Progress of Bills.

House of Lords.

Army and Air Force (Annual) Bill.
Royal Assent. [28th April.

Cambridge Corporation Bill.
Read First Time. [28th April.

Dagenham Trading Estate Bill.
Read Third Time. [3rd May.

Hove Pier Bill.
Read Third Time. [4th May.

Kettering Gas Bill.
Read First Time. [3rd May.

Ministry of Health Provisional Order Confirmation (Hailsham Water) Bill.
Read First Time. [4th May.

Ministry of Health Provisional Order Confirmation (Henley-on-Thames Water) Bill.
Read First Time. [4th May.

Ministry of Health Provisional Order Confirmation (Hertford Water) Bill.
Read First time. [4th May.

Ministry of Health Provisional Orders Confirmation (Elham Valley Water and Herts and Essex Water) Bill.
Read First Time. [4th May.

Ministry of Health Provisional Orders Confirmation (Margate and Yeovil) Bill.
Royal Assent. [28th April.

Ministry of Health Provisional Orders (Derby and Stalybridge, Hyde, Mossley and Dukinfield Tramways and Electricity Board) Bill.
Read First Time. [3rd May.

Ministry of Health Provisional Orders (Lindsey and Lincoln Joint Smallpox Hospital District and Wandle Valley Joint Sewerage District) Bill.
Read First Time. [3rd May.

North Metropolitan Electric Power Supply Bill.
Reported with Amendments. [3rd May.

Road Traffic (Amendment) Bill.
Withdrawn. [4th May.

Road Traffic (Compensation for Accidents) Bill.
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Scarborough Gas Bill.
Read Second Time. [3rd May.

Sheffield Corporation Bill.
Read Third Time. [4th May.

Sidmouth Water Bill.
Reported, with Amendments. [28th April.

South Staffordshire Water Bill.
Reported with Amendments. [3rd May.

Trent Navigation Bill.
Read First Time. [28th April.

Welwyn Garden City Urban District Council Bill.
Read Third Time. [3rd May.

Wheat Bill.
In Committee. [28th April.

House of Commons.

Birkenhead Corporation Bill.
Reported, with Amendments. [28th April.

Cambridge Corporation Bill.
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Children and Young Persons Bill.
Reported, with Amendments. [28th April.

Dagenham Trading Estate Bill.
Read First Time. [3rd May.

Finance Bill.
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Grey Seals Protection Bill.
Lords' Amendment agreed to. [4th May.

Hove Pier Bill.
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Kettering Gas Bill.
Read Third Time. [2nd May.
London Local Authorities (Superannuation) Temporary Provisions Bill.
Read Third Time. [2nd May.
Ministry of Health Provisional Order (Leyton) Bill.
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Ministry of Health Provisional Orders (Abergavenny and Newcastle-upon-Tyne) Bill.
Read First Time. [2nd May.
Ministry of Health Provisional Orders (Derby and Stalybridge, Hyde, Mossley and Dukinfield Tramways and Electricity Board) Bill.
Read Third Time. [29th April.
Ministry of Health Provisional Orders (Lindsey and Lincoln Joint Smallpox Hospital District and Wandle Valley Joint Sewerage District) Bill.
Read Third Time. [2nd May.
Rights of Way Bill.
Reported, with Amendments. [3rd May.
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Read Second Time. [2nd May.
Sea Fisheries Provisional Orders (No. 2) Bill.
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South Wales Electric Power Bill.
Lords' Amendments agreed to. [29th April.
Trent Navigation Bill.
Read Third Time. [28th April.
Walthamstow Corporation Bill.
Read Third Time. [4th May.
Welwyn Garden City Urban District Council Bill.
Read First Time. [3rd May.
Weston-super-Mare Grand Pier Bill.
Read Second Time. [2nd May.

Questions to Ministers.

COMPANIES ACT, 1929.

Sir ARTHUR MICHAEL SAMUEL asked the President of the Board of Trade whether he has considered the official communication from the Society of Incorporated Accountants stating that certain provisions of the Companies Act, 1929, do not protect the investing public; and whether he will agree to their request that a Departmental Committee should be appointed to consider the amending legislation recommended?

Mr. HORE-BELISHA: The recommendations of the Society of Incorporated Accountants and Auditors have been examined and carefully noted for review in connection with any subsequent legislation. [3rd May.

OFFENCES AGAINST YOUNG PERSONS.

VISCOUNTESS ASTOR asked the Home Secretary if, having regard to the increase in indecent assaults on your persons, especially on children under twelve years of age, the number of cases in which defendants are acquitted because the unsworn evidence of the child cannot be accepted without corroboration, and the difficulties of obtaining corroboration since these offences are usually committed when the child is alone, he will consider taking steps to give effect to the recommendations of the Committee on Sexual Offences against Young Persons that, whenever it is justifiable, the evidence of a child who appears able to tell a connected story will be taken on oath and that those conducting prosecutions should bear in mind that the absence of corroboration in the case of a child whose evidence has been given on oath is not a bar to a conviction?

Sir H. SAMUEL: It is obviously desirable that, wherever justifiable, the evidence of a child who can tell a connected story should be taken on oath, and I am advised that in view of the judgment of the Court of Criminal Appeal in *R.* v. *Crocker*, 17 C.A.R. 4546, the absence of corroboration is not a bar in law to a conviction except where corroboration is required by Statute. The recommendations of the committee on these points, which are really suggestions as to the presentation and reception of evidence, were, with other recommendations of the committee, commended to the careful consideration of all concerned in the circular which was issued from the Home Office on 17th September, 1926. The recommendations in question are for the courts and others to consider, rather than for the Home Secretary to give effect to; but no doubt the publicity given to the matter by this question and answer will attract the attention again of those concerned. [27th April.

THE NEW PROCEDURE RULES.

Mr. MACQUISTEN, K.C., has placed on the Order Paper a motion proposing that a humble Address be presented to the King praying that the Rules of the Supreme Court (New Procedure), a copy of which was presented to the House on 2nd May, be annulled. [4th May.

Societies.

United Law Clerks Society.

CENTENARY FESTIVAL.

Lord BLANESBURGH presided at the dinner held by this Society at the Connaught Rooms, on Tuesday, the 3rd May, to celebrate the completion of its 100th year. In proposing the toast of "The Society," he said that all members of the profession appreciated the position which it occupied in legal life. The festival was always one of amazing goodwill and cordiality, and reflected the atmosphere of friendship for which the profession was famous. There was no walk of life in which personal rivalry was so unimportant, and the reason was that every member worked in the service of others and constantly strove after truth and justice. A recent striking manifestation of the spirit of the profession, though it had appeared a matter of commonplace in this country, had been the award by the House of Lords of a very large sum in damages to a foreign bank against a large English company. There could be no hope for the permanent peace of the world except in that confidence and goodwill between nations which could only be founded upon justice. In the rarified atmosphere of the profession the relationship that existed between a clerk and his principal, whether he were barrister or solicitor, was naturally very close and enduring. The services rendered by a clerk were unique. Clerks were the most delightful people in the world; not only active in the effective conduct of their business, but almost as active in protecting their principal from the anger or criticism of counsel or client. The Chairman said that he had known what it was to have a clerk and not to have one, and so he could approach the gathering with a *cri de cœur* to support his appeal for assistance. The Society was one in which the members made every effort to help themselves and had built up a sound insurance scheme to make provision for sickness and old age. It also maintained a benevolent fund for the benefit not only of its own members but also of clerks outside its ranks who had fallen into really severe misfortune. The Society was, therefore, the almoner of the whole profession, and, although these were not times in which anyone could afford to be extravagant in the amount he spent on himself, the Chairman hoped that the profession would not be less than extravagant in the interests of benevolence.

Mr. H. E. STAPLEY, the Hon. Treasurer, in reply said that the generous help which the Society received from the whole profession enabled it to offer its members better terms than any other similar body. Its members had recently, in response to an appeal by its Chairman, contributed £300 to the benevolent fund. The fellowship in its ranks was of great value in raising the hopes and aspirations of its members.

ONE HUNDRED LEGAL GUESTS.

Mr. CHARLES E. MACKLIN, Chairman of the Society, in proposing "The Guests," said that, according to an authority discovered by a well-known Chancery King's Counsel, that "every man may pat himself on the back," it had been customary for this toast to be proposed by a guest, but that at the 100th festival it had been thought improper to allow a guest to say what he proposed to say about the Society's guests that evening. The Society immensely appreciated the way in which gentlemen of both branches of the profession came to the Festival Dinner year by year because they liked it, although they knew they were going to be "fleeced." This year, for the first time, the Society was entertaining, appropriately, over 100 guests, and he hoped that that number would be maintained in the future. He announced that the response to the Chairman's appeal had amounted to £1,100, and had broken the record established by Sir Roger Gregory at the previous festival.

Sir PATRICK HASTINGS, in reply, said that without quoting any particular erudite Chancery authority, he would respond to the toast of "The Guests" upon what he understood was the one hundredth occasion upon which the Society had given one of these dinners. He seemed to have attended most of them himself! He thought that he should have been placed, in order to stimulate his ideas, near some attractive and amusing companion; when he had complained to the toastmaster, the answer had been, "Well, I have put you next to the President of The Law Society!" Sir Patrick continued:

"You mustn't think that I mean in the slightest degree to suggest that Mr. Martineau is a bore. He has told me two stories: one I shall tell to my wife, but I cannot tell it to you; the other I cannot even tell to my wife. My companion on the other side is Mr. Mortimer, who *is* a bore; the only thing he could tell me was that the Attorney-General had only attended the dinner because Mr. Mortimer had been able to float a new Bristol loan. He added, rather unkindly, that the reason why the Attorney-General is wearing a black tie is because he isn't allowed to do any of the underwriting! Finally, I tried Lord Justice Lawrence, and you will be ashamed to hear that the only thing that I discovered to his credit—if it be to his credit—was that he was a member of that recent committee which has been advocating, of all things in the world, the cheapening of litigation. Is there anybody here to-night who can honestly stand up in his place and say that he desires to have litigation cheaper? It is somewhat of a tragedy to my mind to consider that the only people who desire to cheapen litigation are people who have left the profession." Sir Patrick continued, in the same strain, to relate the sad story of how his son, a solicitor's clerk, had told him that his firm were finding it necessary in an important case to brief the best man at the Bar; he had given the lad a sovereign and told him to have a pleasant evening, but when he had inquired on which day the case was to come up for hearing his son had replied that they had not yet ascertained when Mr. Stuart Bevan would be free!

Mr. Justice EVE, in proposing the health of the Chairman, narrated his sufferings under a reducing diet and his triumphant escape in the absence of his family to a glorious meal of pork chops, plum pudding and Welsh rarebit, which had so improved his appearance as to excite appreciative comment. As a result of seven weeks' treatment he had lost 7 ounces. He paid an eloquent tribute to his friend Lord Blanesburgh, whose constancy as a friend, he said, was as immutable as his loyalty was indestructible. The festival terminated with a word of reply by the Chairman.

Among those present were: Lord Justice Lawrence, Lord Riddell, The Rt. Hon. Sir Thomas Inskip, Viscount Erleigh, Sir Alfred Baker, Sir Reginald Poole, Sir G. Stuart Robertson, K.C., F. K. Archer, Esq., K.C., J. Arthur Barratt, Esq., K.C., Stuart Bevan, Esq., K.C., Norman Daynes, Esq., K.C., W. G. Earengey, Esq., K.C., Alexander Grant, Esq., K.C., Wilfred Greene, Esq., K.C., Malcolm Hilbery, Esq., K.C., Hector Hughes, Esq., K.C., W. J. Jeeves, Esq., K.C., E. M. Konstam, Esq., K.C., L. Lowry Porter, Esq., K.C., D. N. Pritt, Esq., K.C., F. P. M. Schiller, Esq., K.C., W. P. Spens, Esq., K.C., Gavin T. Simonds, Esq., K.C., W. Cleveland Stevens, Esq., K.C., H. B. Vaisey, Esq., K.C., William O. Willis, Esq., K.C., Gerald Addison, Esq., Guy H. Cholmeley, Esq., Lionel Cohen, Esq., J. H. C. Goldie, Esq., F. M. Guedalla, Esq., Philip H. Martineau, Esq., Theobald Mathew, Esq., Frank Mellor, Esq., W. E. Mortimer, Esq., G. T. Paull, Esq., Hugh Quennel, Esq., J. H. Stamp, Esq., Arthur Stiebel, Esq., C. V. Young, Esq.

Rules and Orders.

THE RULES OF THE SUPREME COURT (NEW PROCEDURE), 1932.
DATED APRIL 23, 1932.

We, the Rule Committee of the Supreme Court, hereby make the following Rules:—

1. The following Rules shall be inserted after Order XXXVIII and shall stand as Order XXXVIIIa.

"ORDER XXXVIIIa.

New Procedure List.

1. *Scope of the new procedure.*]—(1) This Order applies to actions assigned to the King's Bench Division, except as otherwise provided in this Rule.

(2) This Order does not apply:—

(*a*) to actions for libel, slander, malicious prosecution, false imprisonment, seduction, or breach of promise of marriage;

(*b*) to actions in which fraud is alleged by the plaintiff;

(*c*) to actions proceeding in any District Registry other than the District Registries in Liverpool and Manchester; or

(*d*) to actions commenced before the 24th day of May, 1932.

2. *Constitution of new procedure list.*]—(1) A writ of summons in any action to which this Order applies may, at the option of the plaintiff but subject to the provisions of Rule 3 of this Order, be marked with the words 'New Procedure.'

(2) An action in which the writ of summons has been so marked may be called a new procedure action, and the list of new procedure actions may be called the New Procedure list.

(3) For the purposes of this Order 'the ordinary list' means the actions pending in the King's Bench Division other than new procedure actions.

(4) The Lord Chancellor may, after consultation with the Lord Chief Justice, arrange that the new procedure list shall be continuously taken by Judges who shall remain in London.

3. *Certificate of fitness for new procedure.*]—The solicitor acting for the plaintiff in the action may, if satisfied that the action is one to which this Order applies and that it is not by reason of its complexity or other circumstances unsuitable for the procedure prescribed by this Order, indorse on the writ of summons a certificate that in his opinion the action is fit for the new procedure, and no writ of summons marked with the words "New Procedure" shall be issued, unless it is so indorsed.

4. *Statement of claim.*]—The plaintiff may, at the time of the service of the writ of summons, and shall, within seven days of the defendant's entry of appearance, deliver a statement of claim with all proper particulars.

5. *Defence and Counter-claim.*]—(1) Within seven days of the delivery of the statement of claim or within four days of the defendant's entry of appearance, whichever period shall last expire, the defendant shall, without asking for further or better particulars, deliver a defence with all proper particulars.

(2) The defendant may, with his defence, set up a counter-claim with all proper particulars.

6. *Reply.*]—Where the defendant has set up a counter-claim or a defence to which a reply is necessary, the plaintiff shall, within seven days of the delivery of the defence, deliver a reply including a defence to the counter-claim (if any).

7. *Summons for directions.*]—(1) Within seven days of the delivery of the defence, or of the reply (if any), the plaintiff shall take out a summons for directions returnable in not less than four days before one of the Judges taking the new procedure list.

(2) The plaintiff shall, when taking out the summons, lodge a copy of the pleadings for the use of the Judge.

8. *Powers of the judge.*]—(1) On the hearing of the summons for directions or any adjournment thereof the Judge shall have the powers specified in this Rule.

(2) The Judge may in his discretion—

(*a*) where a plaintiff or defendant has failed to give sufficient particulars of his claim, defence or counter-claim, make such order for further and better particulars, and as to costs occasioned by such default, as he may think fit, or may, in lieu of ordering further particulars, order the action to be transferred to the ordinary list or the counter-claim to be excluded.

(*b*) make such order for discovery and inspection of documents, or with regard to admissions of fact and of documents, as he may think necessary or desirable having regard to the issues raised in the pleadings, and in particular may order lists of documents to be delivered in lieu of affidavits of documents;

(*c*) order the action to be set down for trial as a new procedure action;

(*d*) order the action to be transferred from the new procedure list to the ordinary list;

(*e*) order the action to be removed from the new procedure list and to be set down for trial at Assizes;

(*f*) exercise any statutory power in force with regard to the transfer or remission of an action from the High Court to a County Court;

(*g*) order the action or any issue therein to be tried with a jury or without a jury as, in his discretion, he may think fit;

(*h*) order that no more than a specified number of expert witnesses may be called;

(*j*) order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the trial on such conditions as the Judge may think reasonable or that any witness whose attendance in Court ought for some sufficient ground to be dispensed with be examined before a Commissioner or Examiner; provided that where it appears to the Judge that the other party reasonably desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit, but the expenses of such witness at the trial may be specially reserved;

(*k*) record any consent of the parties either wholly excluding their right of appeal or limiting it to the Court of Appeal or limiting it to questions of law only.

(3) The Judge may order that any question involving expert knowledge shall be referred to a special referee for inquiry and report, and in particular and without prejudice to the general power, the Judge may refer to a special referee for inquiry and report any question arising as to the nature, extent and permanence of any injury caused or alleged to have been caused by the negligence of a party on the terms (*a*) that the report when received shall be communicated to both parties with a view to ascertaining whether they are willing before further expense is incurred to agree to accept the report in whole or in part; (*b*) that in so far as the report is not accepted by both parties it shall be treated as information furnished to the Court, and shall be subject to the criticism of any expert witness called at the trial, and shall be given such weight in deciding any question of difference between the expert witnesses as the Court shall think fit; (*c*) that the proper remuneration of the referee shall be fixed by the Judge after the receipt of the report, and that the parties shall be jointly and severally liable to pay the remuneration so fixed to the referee, and (*d*) that the costs of the reference, including the remuneration of the referee, unless otherwise ordered, shall be costs in the action.

(4) In addition to the powers conferred by this Rule, the Judge shall have all the powers which a Court or Judge has in respect of an action in the ordinary list, and in exercising those powers he shall have special regard to the desirability of saving time and expense and to the power of transferring actions from the new procedure list to the ordinary list.

(5) There shall be no appeal from a decision of the Judge under this Rule without the leave of the Judge.

9. *Day for trial.*]—(1) The Judge may fix a day for the trial of any new procedure action, and the action shall, as far as possible, be tried on that day.

(2) The action shall, as far as possible, be tried by the Judge who heard the summons for directions.

10. *Allegation of fraud.*]—Where an action is commenced as a new procedure action, and subsequently fraud is alleged in any of the pleadings against any party, the action may be transferred to the ordinary list, and, if any party against whom fraud is alleged so desires, shall be so transferred.

11. *Transfer at instance of defendant.*]—Where an action is transferred to the new procedure list under Order XII, Rule 17A, at the instance of a defendant, the action shall become a new procedure action, and the provisions of this Order shall apply so far as applicable unless the Judge on the application of the plaintiff or a co-defendant otherwise directs.

12. *Transfer under Order XIV.*]—(1) Where an action is transferred to the new procedure list under Order XIV, Rule 8 (*c*), the action shall become a new procedure action, and the provisions of this Order shall apply so far as applicable.

(2) Where it has been ordered that the affidavit filed by the defendant in the proceedings under Order XIV shall serve in lieu of a defence, and the defendant desires to rely upon a defence or counter-claim not disclosed in the affidavit, he shall within four days from the date of the order deliver to the plaintiff particulars of such defence or counter-claim in writing, and the time for the delivery of the plaintiff's reply (if any) and for the summons for directions shall be enlarged accordingly.

13.—(1) If, by reason of the amount of business in the new procedure list or for any other reason, the Judges taking the new procedure list cannot hear all the interlocutory proceedings without prejudice to the speedy trial of the actions in the list, any Judge taking that list may delegate to a Master of the King's Bench Division the jurisdiction to hear any interlocutory proceedings under this Order, and may give general directions to such Master as to the exercise of the jurisdiction.

(2) Any appeal from a decision of the Master exercising jurisdiction under this Rule shall be heard by a Judge taking the new procedure list, and, so far as is possible, by the Judge who delegated the jurisdiction.

(3) Where a Judge has decided an appeal from a Master exercising jurisdiction under this Rule, the decision shall be final unless the Judge gives leave to appeal.

14. The list of new procedure actions proceeding in the Liverpool and Manchester District Registries shall be taken by a District Registrar in Liverpool and Manchester respectively and with respect to those actions the provisions of Rules 7 and 8 of this Order shall be construed as if a District Registrar in Liverpool or Manchester were substituted for the Judge wherever the Judge is mentioned in those Rules:

Provided that where a District Registrar has given leave to appeal from his decision under Rule 8 (5) of this Order the appeal shall be to a Judge taking the new procedure list in London and the decision of the Judge shall be final unless the Judge gives leave to appeal.

15. The Rules applicable to an action in the ordinary list shall apply to new procedure actions except so far as they are inconsistent with the provisions of this Order.

16. Nothing in this Order shall affect the practice as regards the trial of causes in the Commercial List or the transfer of causes to or from the Commercial List."

2. The following Rule shall be inserted in Order XII after Rule 17 and shall stand as Rule 17A:—

"17A.—(1) Any defendant in—

Transfer to new procedure list.]—(*a*) an action to which Order XXXVIIIA applies in which the writ of summons is not marked 'New Procedure,' or

(*b*) an action commenced in any District Registry to which Order XXXVIIIA would have applied if it had been commenced in London or in the Liverpool or Manchester District Registry and in which action the defendant enters his appearance in London,

may (if the action is certified in accordance with the provisions of paragraph (2) of this Rule) insert in his memorandum and notice of appearance the words 'I desire the action to be transferred to the new procedure list' and thereupon the action shall (subject to the provisions of paragraph (2) of this Rule) be transferred to the new procedure list constituted under Order XXXVIIIA, and shall proceed in accordance with and subject to the provisions of that Order.

(2) The solicitor acting for the defendant in the action may, if satisfied that the action is one to which Order XXXVIIIA applies and that it is not by reason of its complexity or other circumstances unsuitable for the procedure prescribed by that Order, insert in the memorandum and notice of appearance a certificate that in his opinion the action is fit for the new procedure list, and no action shall be transferred to the new procedure list under this Rule unless the memorandum and notice of appearance contain such a certificate.

(3) Nothing in this Rule shall preclude the plaintiff from applying to a Master or District Registrar for summary judgment under Order XIV, and any appeal from a decision

thereunder shall lie as heretofore to the Judge in chambers."

3. The following paragraph shall be added to Order XIV, Rule 8:—

"(c) The Judge may, if he thinks fit, order any such action to be transferred to the new procedure list constituted under Order XXXVIIIA; and may direct that the affidavit filed by the defendant under this Order shall serve in lieu of a defence, subject to any direction of the Judge taking the new procedure list and thereafter the action shall proceed in accordance with and subject to the provisions of Order XXXVIIIA."

4. The following Rule shall be inserted in Order XXX after Rule 2, and shall stand as Rule 2A:—

"2A. Upon the hearing of the summons in an action in the Chancery Division the Court or a Judge may, in addition to other powers, exercise any of the powers conferred on a Judge by Order XXXVIIIA, Rule 8 (2) (*b*), (*h*), (*j*) and (*k*)."

5. These Rules may be cited as the Rules of the Supreme Court (New Procedure), 1932, and shall come into operation on the 24th day of May, 1932, and the Rules of the Supreme Court, 1883,(*) shall have effect as amended by these Rules.

Dated the 23rd day of April, 1932.

Sankey, C.
Hewart, C.J.
Hanworth, M.R.
P. Ogden Lawrence, L.J.
A. A. Roche, J.
Rigby Swift, J.
Maugham, J.
D. B. Somervell,
A. W. Cockburn.
C. H. Morton.
Roger Gregory.

* S.R. & O. Rev. 1904, XII, Supreme Court, E., pp. 54–417 (reprinted as amended to Dec. 31, 1903).

Legal Notes and News.

Honours and Appointments.

The Prince of Wales has appointed Major WALTER TURNER MONCKTON, M.C., K.C., to be his Attorney-General and a member of the Council of His Royal Highness.

The Secretary of State for Scotland has appointed Mr. JAMES ROBERTSON, solicitor, to be Clerk of the Peace for the County of Caithness, in place of Mr. GEORGE A. O. GREEN, deceased.

Mr. ARTHUR BRACEWELL, solicitor, of the firm of Messrs. J. and A. A. Bracewell, solicitors, Colne, has been appointed Chairman of the Colne Court of Referees.

Professional Announcements.

(2s. per line.)

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS OR SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

THE INNER TEMPLE.

Sir William Hansell, K.C., has been elected Reader for the Summer Vacation. The Hon. Mr. Justice Lawrence, Mr. William Norman Birkett, K.C., and Mr. Digby Cotes-Preedy, K.C., have been elected Masters of the Bench of the Inner Temple.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y May 9	Mr. More	Mr. Jones	Mr. Jones	Mr.*Hicks Beach
Tuesday .. 10	Hicks Beach	Ritchie	*Hicks Beach	*Blaker
Wednesday 11	Andrews	Blaker	Blaker	*Jones
Thursday . 12	Jones	More	*Jones	Hicks Beach
Friday 13	Ritchie	Hicks Beach	Hicks Beach	*Blaker
	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness Part II
M'nd'y May 9	Mr.*Blaker	Mr.*Ritchie	Mr. Andrews	Mr.*More
Tuesday .. 10	Jones	*Andrews	More	Ritchie
Wednesday 11	Hicks Beach	*More	Ritchie	*Andrews
Thursday . 12	Blaker	*Ritchie	Andrews	More
Friday 13	Jones	Andrews	More	*Ritchie

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The Whitsun Vacation will commence on Saturday, the 14th day of May, 1932, and terminate on Tuesday, the 17th day of May, 1932, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (21st April, 1932) 3%. Next London Stock Exchange Settlement Thursday, 26th May, 1932.

	Middle Price 4th May 1932.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	96	4 3 4	—
Consols 2½%	61¾	4 1 0	—
War Loan 5% 1929-47	101	4 19 0	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
Funding 4% Loan 1960-90	98	4 1 8	4 1 10
Victory 4% Loan (Available for Estate Duty at par) Average life 30 years	98⅜	4 0 8	4 1 6
Conversion 5% Loan 1944-64	107	4 13 5	4 11 7
Conversion 4½% Loan 1940-44	104	4 6 8	4 1 6
Conversion 3½% Loan 1961	86	4 1 5	—
Local Loans 3% Stock 1912 or after	71½	4 4 0	—
Bank Stock	272	4 8 2	—
India 4½% 1950-55	88	5 2 4	—
India 3½%	66	5 6 0	—
India 3%	57	5 5 3	—
Sudan 4½% 1939-73	99½	4 10 5	4 10 6
Sudan 4% 1974	93	4 6 0	4 7 4
Transvaal Government 3% 1923-53 (Guaranteed by British Government.)	87	3 8 11	3 18 7
Colonial Securities.			
Canada 3% 1938	93	3 4 6	4 5 1
Cape of Good Hope 4% 1916-36	96	4 3 4	4 10 10
Cape of Good Hope 3½% 1929-49	82½	4 4 10	5 0 3
Ceylon 5% 1960-70	106	4 14 4	4 13 3
Commonwealth of Australia 5% 1945-75	84½	5 18 4	6 0 3
Gold Coast 4½% 1956	101	4 9 3	4 8 9
Jamaica 4½% 1941-71	100	4 10 0	4 10 0
Natal 4% 1937	97	4 2 6	4 13 9
New South Wales 4½% 1935-45	68	6 10 5	8 10 10
New South Wales 5% 1945-65	65xd	7 13 10	8 0 11
New Zealand 4½% 1945	89½	5 0 7	5 13 7
New Zealand 5% 1946	99	5 1 0	5 2 0
Nigeria 5% 1950-60	105	4 15 3	4 13 7
Queensland 5% 1940-60	75	6 13 4	7 1 6
South Africa 5% 1945-75	100½	4 19 6	4 19 5
South Australia 5% 1945-75	75	6 13 4	6 16 0
Tasmania 5% 1945-75	82	6 2 0	6 4 1
Victoria 5% 1945-75	75	6 13 4	6 16 0
West Australia 5% 1945-75	82	6 2 0	6 4 1
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	69	4 6 11	—
Birmingham 5% 1946-56	105	4 15 3	4 13 1
Cardiff 5% 1945-65	103	4 17 1	4 16 5
Croydon 3% 1940-60	75	4 0 8	4 12 9
Hastings 5% 1947-67	105	4 15 3	4 14 2
Hull 3½% 1925-55	84	4 3 4	4 13 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	80	4 7 6	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	58	4 6 2	—
London City 3% Consolidated Stock after 1920 at option of Corporation	71xd	4 4 6	—
Metropolitan Water Board 3% "A" 1963-2003	71½	4 3 10	—
Do. do. 3% "B" 1934-2003	73	4 2 2	—
Middlesex C.C. 3½% 1927-47	89	3 18 8	4 10 9
Newcastle 3½% Irredeemable	76	4 12 2	—
Nottingham 3% Irredeemable	69	4 6 11	—
Stockton 5% 1946-66	103	4 17 1	4 16 5
Wolverhampton 5% 1946-56	104	4 16 2	4 14 2
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 15 10	—
Gt. Western Railway 5% Rent Charge	97½	5 2 7	—
Gt. Western Rly. 5% Preference	61½	8 2 8	—
L. Mid. & Scot. Rly. 4% Debenture	77½	5 3 2	—
L. Mid. & Scot. Rly. 4% Guaranteed	62½	6 8 0	—
L. Mid. & Scot. Rly. 4% Preference	34	11 15 3	—
Southern Railway 4% Debenture	78½	5 1 10	—
Southern Railway 5% Guaranteed	89½	5 11 9	—
Southern Railway 5% Preference	48½	10 6 2	—
*L. & N.E. Rly. 4% Debenture	68½	5 16 9	—
*L. & N.E. Rly. 4% 1st Guaranteed	55½	7 4 1	—
*L. & N.E. Rly. 4% 1st Preference	31	12 18 0	—

*The Prior Charge Stocks of the L. & N.E. Ry. are no longer available for Trustees under the heading of either Strict Trustee or Chancery Stocks as no dividend has been paid on that Company's Ordinary Stocks for the past year.